

Please note: These transcripts are not individually approved and reviewed for accuracy.

BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

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IN THE MATER OF:

REGULAR MONTHLY)

BUSINESS MEETING)

DATE AND TIME: THURSDAY, NOVEMBER 5, 1998
9:30 A.M.

PLACE: BOARD HEARING ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA 95826

REPORTER: DONNA ARCHULETA CSR NO 11828

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A P P E A R A N C E S

MR. DANIEL G. PENNINGTON, CHAIRMAN

MR. ROBERT C. FRAZEE, VICE CHAIRMAN

MR. DAN EATON, MEMBER

MR. STEVEN R. JONES, MEMBER

MR. STEPHEN M. RHOADS, MEMBER

INDEX

	PAGE
CALL TO ORDER	4
EX PARTE COMMUNICATIONS	5
PROCEDURES AND ANNOUNCEMENTS	7
AGENDA ITEM NO. 2: NEW PERMIT FOR ANZA COLLECTION STATION	16
AGENDA ITEM NO. 3: CONSIDERATION OF APPROVAL TO BEGIN A 45-DAY PUBLIC COMMENT PERIOD FOR THE PERMANENT WASTE TIRE STORAGE REGULATIONS	20
AGENDA ITEM NO. 4: CONSIDERATION OF THE PROPOSED RANKING CRITERIA AND SCORING PROCESS FOR THE 199 8-99 FISCAL YEAR WASTE TIRE ENFORCEMENT GRANT PROGRAM AND THE LOCAL GOVERNMENT WASTE TIRE CLEANUP MATCHING GRANT PROGRAM	27
AGENDA ITEM NO. 5: CONSIDERATION OF APPROVAL OF AUGMENTATION OF ENGINEERING AND ENVIRONMENTAL SERVICES CONTRACT AND UPDATE OF THE CONTRACT STATUS	39
AGENDA ITEM NO. 6: DISCUSSION OF ISSUES REGARDING THE RELATIONSHIP BETWEEN CALIFORNIA INTEGRATED WASTE MANAGEMENT PLANS, AND LOCAL ISSUES INCLUDING LOCAL CONFORMANCE FINDINGS, FLOW CONTROL, JOINT POWER AUTHORITIES, AND LOCAL ORDINANCES	65
AGENDA ITEM NO. 7: CONSIDERATION OF APPROVAL TO FORMALLY NOTICE FOR A 45-DAY PUBLIC COMMENT PERIOD PROPOSED REGULATORY CHANGES TO PROCEDURES FOR PREPARING AND REVISING CITY, REGIONAL AGENCY, AND COUNTY SOURCE REDUCTION AND RECYCLING ELEMENTS AND NON-DISPOSAL FACILITY ELEMENTS	129
AGENDA ITEM NO. 8: CONSIDERATION OF STAFF RECOMMENDATION TO CORRECT THE BASE-YEAR GENERATION AMOUNT FOR THE PREVIOUSLY APPROVED SOURCE REDUCTION AND RECYCLING ELEMENT FOR UNINCORPORATED LOS ANGELES COUNTY	135

AGENDA ITEM NO. 9: CONSIDERATION OF APPROVAL OF SCOPE OF WORK FOR THE DEVELOPMENT OF CASE STUDIES ON EXEMPLARY SOLID WASTE DIVERSION PROGRAMS AND THE IMPLEMENTATION OF A STATEWIDE VIDEO CONFERENCE TO INFORM AND DISTRIBUTE THE MATERIALS DEVELOPED	149
AGENDA ITEM NO. 10: CONSIDERATION OF APPROVAL OF THE SCOPE OF WORK FOR REQUESTS FOR PROPOSALS TO IMPLEMENT THE AGRICULTURAL AND OTHER END-USE PARTNERSHIP CONTRACT CONCEPTS	159
AGENDA ITEM NO. 11: CONSIDERATION AND APPROVAL OF A PROPOSED PROCESS FOR DISCRETIONARY CONSULTING AND PROFESSIONAL SERVICES CONTRACT	168
AGENDA ITEM NO. 12: REPORT ON THE FINAL OUTCOME OF THE ARCHITECTURAL AND ENGINEERING CONTRACT PROCESS ENHANCEMENT PROJECT	183
NORCAL WASTE SYSTEMS	194

1 CHAIRMAN PENNINGTON: GOOD MORNING AND WELCOME TO
2 THE NOVEMBER 5TH, 1998, MEETING OF THE CALIFORNIA
3 INTEGRATED WASTE MANAGEMENT BOARD.

4 II. ROLL CALL AND DECLARATION OF QUORUM

5 CHAIRMAN PENNINGTON: WOULD THE SECRETARY
6 PLEASE CALL THE ROLL?

7 THE SECRETARY: BOARD MEMBER CHESBOROUGH,
8 ABSENT.

9 BOARD MEMBER EATON?

10 MEMBER EATON: HERE.

11 THE SECRETARY: FRAZEE?

12 MEMBER FRAZEE: HERE.

13 THE SECRETARY: JONES?

14 MEMBER JONES: HERE.

15 THE SECRETARY: RHOADS?

16 MEMBER RHOADS: HERE.

17 THE SECRETARY: CHAIRMAN PENNINGTON?

18 CHAIRMAN PENNINGTON: HERE.

19 III. OPENING REMARKS

20 CHAIRMAN PENNINGTON: WE HAVE A QUORUM.

21 MR. CHEESBOROUGH IS NOT WITH US TODAY BUT WILL BE
22 HERE FOR THE NEXT MEETING, I BELIEVE. BUT HIS TENURE
23 ON THE BOARD IS COMING TO A FAST CLOSE, BECAUSE HE
24 DID GET ELECTED TO THE STATE SENATE. SO WE'LL WISH
25 HIM WELL. AND IT'S NICE TO KNOW THAT YOU CAN USE

1 THE BOARD AS A STEPPING STONE.

2 LET'S SEE. EX PARTES, WE'LL START WITH MR.

3 EATON.

4 MEMBER EATON: I JUST HAVE TWO THAT I

5 JUST RECEIVED A FEW MINUTES AGO. ONE FROM A J.

6 JEFFREY KNAPP, 1193 G STREET, ARCATA, CALIFORNIA,

7 REGARDING THE HUMBOLDT COUNTY PROPOSED TRANSFER

8 STATION. AND A SECOND COMMUNICATION DATED

9 NOVEMBER 4TH, 1998, FROM JIM TEST, MAYOR OF THE

10 CITY OF ARCATA, ALSO REGARDING THE HUMBOLDT COUNTY

11 WASTE MANAGEMENT TEMPORARY TRANSFER STATION.

12 CHAIRMAN PENNINGTON: OKAY. MR. JONES?

13 MEMBER JONES: MR. CHAIRMAN, I GOT THE

14 SAME LETTERS. AND ANOTHER ONE THAT I THINK --

15 MIKE LEGGINS FROM NORCAL ON SOME CONTAMINATED DIRT

16 THAT JUST GOT TO US, I HAVEN'T READ. AND THEN A

17 CONVERSATION WITH RON BEAVERS AND EVAN EDGAR ON

18 SOME TULARE ISSUES THIS MORNING. THAT'S IT.

19 CHAIRMAN PENNINGTON: VERY GOOD. MR.

20 RHOADS?

21 MEMBER RHOADS: I'VE UPDATED MY EX PARTE

22 ALREADY, SO I DON'T HAVE ANY.

23 HOWEVER, I WOULD LIKE TO GRANT

24 PERMISSION FOR BOARD MEMBER EATON TO BE ABLE TO

25 GLOAT AND BE VERY WELL SATISFIED ABOUT THE

1 ELECTIONS.

2 MEMBER EATON: NOW THAT YOU STARTED, MR.

3 RHOADS.

4 MEMBER RHOADS: YOU DID VERY WELL, AND

5 YOU ARE TO BE CONGRATULATED.

6 CHAIRMAN PENNINGTON: ABSOLUTELY. I

7 CERTAINLY CONCUR WITH THAT.

8 MR. FRAZEE?

9 MEMBER FRAZEE: YES, MR. CHAIRMAN. I

10 HAVE A LETTER FROM MARK LEARY, BFI, REGARDING

11 AGENDA ITEM NO. 6, THE CIWMP LOCAL ISSUES. THE

12 AFOREMENTIONED LETTER FROM JEFFREY KNAPP WITH

13 UNITED NEIGHBORHOOD ALLIANCE IN HUMBOLDT COUNTY,

14 THIS IS ON ADDENDUM NO. 1, THE ARCATA TRANSFER

15 STATION. A LETTER, ALSO PREVIOUSLY MENTIONED,

16 FROM JIM TEST, THE MAYOR OF THE CITY OF ARCATA, ON

17 THE SAME HUMBOLDT COUNTY IS SUE. AND THEN A

18 CONVERSATION I HAD WITH ANN SNIDER, CAL STATE

19 MONTEREY, ON OUR C&D VIDEO PROPOSED PROJECT. AND

20 VINCE CAGLIA, ORANGE AVENUE LANDFILL IN FRESNO,

21 AND THAT WAS JUST A TOUR OF THE FACILITY. OH, I

22 ALSO HAVE THE -- JUST ON OUR DESK HERE THE LETTER

23 FROM NORCAL CITY GARBAGE OF EUREKA SIGNED BY

24 MICHAEL LEGGINS. THAT COMPLETES MINE.

25 CHAIRMAN PENNINGTON: THANK YOU, MR. FRAZEE.

1 I HAVE, DEALING WITH ITEM NO. 2, THE
2 ANZA LANDFILL, SUPERVISOR VENABLE. AND ITEM 6,
3 THE CIWMB PLANS AND LOCAL ISSUES, MARK LEARY AND
4 PAM BENNETT. AND ADDENDUM ONE, HUMBOLDT COUNTY,
5 RACHEL HOOPER AND JIM TEST, AND 3. JEFFREY KNAPP.
6 LET'S SEE. FOR ANYBODY WHO WISHES TO
7 ADDRESS ANY ITEM ON THE BOARD AGENDA TODAY, SPEAKER
8 REQUEST FORMS ARE AT THE BACK AT THE TABLE. IF
9 YOU'LL FILL ONE OUT AND GET IT TO MS. KELLY HERE,
10 WE'LL MAKE SURE YOU GET TO SPEAK TO THE ITEM
11 YOU'RE INTERESTED IN.
12 AGENDA ITEMS NO. 1 AND 13 ARE PULLED
13 FROM TODAY'S AGENDA. THERE ARE NO ITEMS CONTINUED
14 FROM THE PREVIOUS BOARD MEETING TO TODAY'S
15 MEETING.
16 AT APPROXIMATELY 11:00 O'CLOCK, THE BOARD
17 WILL HEAR AGENDA ITEM 6 CONCERNING THE CIWMB PLANS
18 AND LOCAL ISSUES.
19 AND DO ANY BOARD MEMBERS HAVE ANY
20 REPORTS OR STATEMENTS THEY WISH TO MAKE?
21 IV. REPORTS AND PRESENTATIONS
22 MEMBER JONES: MR. CHAIRMAN.
23 CHAIRMAN PENNINGTON: YES, MR. JONES.
24 MEMBER JONES: JUST A COUPLE OF THINGS.
25 ON SEPTEMBER 27TH, FOLKS HERE AT THE WASTE BOARD

1 WALKED IN A PLEDGE ISSUE FOR JUVENILE DIABETES
2 FOUNDATION, AND I JUST FOUND OUT LAST WEEK THAT
3 OUR EFFORTS NETTED ALMOST \$3400. SO I THINK THAT
4 THE SECOND YEAR IN A ROW WE DID A GOOD JOB. I
5 THINK WE HAD A PRETTY GOOD TIME. IT WAS RAINING,
6 BUT ALL 35 SHOWED UP TO WALK, WALK AND RUN AND
7 HAVE A GOOD TIME. BUT I REALLY APPRECIATE THE
8 EFFORTS AND WANTED TO LET THIS BOARD KNOW THAT,
9 AGAIN, THE STAFF COMES THROUGH FOR A WORTHY CAUSE.
10 AND I'M SURE WE'RE GOING TO CONTINUE.
11 AND THEN JUST QUICKLY, OUR AMERICA
12 RECYCLES DAY EVENTS, WE'VE HAD A LOT OF ACTIVITY,
13 A LOT OF PEOPLE THAT HAVE GONE THROUGH THE
14 BIENNIAL REVIEW AND THEY'RE HAVING EVENTS -- WANT TO
15 SEE US AT THEIR LOCATIONS, AND THE LIST IS GROWING.
16 AND PEOPLE DEFINITELY WANT THE RECOGNITION AND
17 WANT TO BE ACKNOWLEDGED FOR THEIR HARD EFFORTS,
18 AND THAT'S ENCOURAGING.
19 AND I THINK MR. RHOADS IS GOING TO BE
20 IN SOUTHERN CALIFORNIA ON FRIDAY DOING A RADIO
21 INTERVIEW ON AMERICA RECYCLES DAY EVENTS IN
22 SOUTHERN CALIFORNIA. AND I WAS ON TWO OF THEM
23 YESTERDAY THAT WERE TAPED FOR AIRING SUNDAY. SO
24 IF YOU DON'T HAVE ANYTHING TO DO BETWEEN 7:00 AND
25 8:00 ON SUNDAY MORNING WE'RE GOING TO BE ON 94.7

1 AND 96.1 TALKING ABOUT CLOSING THE LOOP. SO I
2 THOUGHT I WOULD REPORT THAT.

3 CHAIRMAN PENNINGTON: WHAT TIME IN THE
4 MORNING?

5 MEMBER JONES: I THINK 7:00 TO 7:30. IT'S
6 ON 94.7 F.M. AND FROM 7:30 TO 8:00 ANOTHER
7 INTERVIEW WITH 96.1. DAN REAGAN FROM THE COUNTY
8 OF SACRAMENTO AND MYSELF WERE INTERVIEWED IN A
9 SORT OF A HALF-HOUR CONVERSATION ABOUT RECYCLING,
10 AB 939, AND AMERICA RECYCLES DAY ACTIVITIES AND
11 EVENTS.

12 CHAIRMAN PENNINGTON: VERY GOOD.

13 MEMBER EATON: ISN'T THAT SMOOTH JAZZ AND ACID
14 ROCK?

15 MEMBER JONES: ABSOLUTELY.

16 CHAIRMAN PENNINGTON: OKAY. ANY OTHER
17 COMMENTS?

18 MEMBER FRAZEE: YES.

19 CHAIRMAN PENNINGTON: MR. FRAZEE.

20 MEMBER FRAZEE: YES, MR. CHAIRMAN. I
21 ATTENDED AND PARTICIPATED IN THE RUBBERIZED
22 ASPHALT CONFERENCE THAT WAS HELD IN FRESNO THIS
23 WEEK. THIS IS THE THIRD IN A SERIES OF
24 CONFERENCES JOINTLY SPONSORED BY THIS BOARD, THE
25 L.A. TECH CENTER, AND THE RUBBER PAVEMENT

1 ASSOCIATION. THIS ONE ALSO WAS A GREAT SUCCESS.
2 SOME 80 PEOPLE I THINK SIGNED UP FOR PARTICIPATION
3 IN THIS AND, OF COURSE, LARGE NUMBERS OF PEOPLE
4 FROM PUBLIC WORKS DEPARTMENTS OF VARIOUS AGENCIES
5 THROUGHOUT THE VALLEY. THESE HAVE BEEN SUCH A
6 SUCCESS.

7 AND THERE IS -- WAS NOTICE OF LACK OF
8 EXPOSURE TO SOUTHERN CALIFORNIANS. SO THERE IS A
9 PLAN NOW TO HOLD A FOURTH ONE OF THESE, PROBABLY
10 ON FEBRUARY 11TH IN CARLSBAD --

11 CHAIRMAN PENNINGTON: ALL RIGHT.

12 MEMBER FRAZEE: -- IN SOUTHERN
13 CALIFORNIA. AND WE'RE LOOKING FORWARD TO SETTING
14 THAT ONE UP AND GETTING SOME EXPOSURE IN THAT PART
15 OF THE STATE.

16 CHAIRMAN PENNINGTON: VERY GOOD. ANY
17 OTHER COMMENTS?

18 IF NOT, NOW WE'LL HEAR FROM THE
19 EXECUTIVE DIRECTOR, MR. CHANDLER.

20 MR. CHANDLER: THANK YOU, MR. CHAIRMAN,
21 AND GOOD MORNING MEMBERS. I HAVE FOUR ITEMS IN MY
22 REPORT TODAY WHICH I'D LIKE TO UPDATE YOU ON.
23 THE FIRST HAS TO DO WITH OUR ONGOING
24 EFFORTS REGARDING OUR AB 59 WORKSHOPS. ON OCTOBER
25 26TH AND 27TH, WORKSHOPS IN SACRAMENTO IDENTIFIED

1 POTENTIAL LEGISLATIVE AND REGULATORY CHANGES IN
2 THE LOCAL HEARING PANEL PROCEDURES AND APPEALS TO
3 THE WASTE BOARD. BOTH WORKSHOPS RESPONDED TO
4 ISSUES DEVELOPED IN AN EARLIER WORKSHOP IN
5 SOUTHERN CALIFORNIA. AND OUR NEXT WORKSHOP IS
6 SCHEDULED ON NOVEMBER 17TH IN SACRAMENTO.
7 THE OCTOBER MEETINGS COVERED WHAT
8 KINDS OF MATTERS ARE APPEALABLE BEFORE A HEARING
9 PANEL, THE MAKE-UP OF HEARING PANELS THEMSELVES,
10 TIMING OF APPEALS AND SIMILAR ISSUES. THE 17TH
11 WORKSHOP WILL DEAL WITH RELATED MATTERS AND
12 CLARIFY WHAT MAY BE APPEALED BEFORE THE BOARD.
13 CONTINUING ON THE ISSUES OF WORKSHOPS,
14 ON OCTOBER 22ND IN SACRAMENTO AND ON OCTOBER
15 28TH IN DIAMOND BAR, OUR SB 1066 WORKSHOPS
16 WERE HELD ON WHAT JURISDICTIONS NEED TO DO TO
17 PETITION THE BOARD FOR TIME EXTENSIONS AND
18 ALTERNATIVE DIVERSION REQUIREMENTS TO MANDATE A
19 50 PERCENT DIVERSION GOALS.
20 UNDER SB 1066, NON-RURAL
21 JURISDICTIONS CAN REQUEST SINGLE- OR MULTIPLE-YEAR
22 TIME EXTENSIONS AND ALTERNATIVE DIVERSION
23 REQUIREMENTS. STAFF HAS PREPARED DRAFT PROCEDURES
24 ON WHAT INFORMATION JURISDICTIONS NEED TO SUBMIT
25 TO THE BOARD ON SUCH REQUESTS, INCLUDING

1 DESCRIPTIONS OF ACTIVITIES UNDERTAKEN AS, QUOTE,
2 “GOOD FAITH WASTE MANAGEMENT EFFORTS.”
3 THE WORKSHOPS PRESENTED DRAFT
4 GUIDELINES AND SOLICITED IDEAS TO DEVELOP A MODEL
5 PETITION. LOCAL GOVERNMENT REPRESENTATIVES AND
6 INTERESTED PARTIES PROVIDED VERY HELPFUL
7 INFORMATION.
8 OUR NEXT STEPS WILL BE TO REVIEW
9 COMMENTS RECEIVED, FINALIZE PROCEDURES, AND
10 CONSTRUCT A MODEL PETITION JURISDICTIONS CAN USE
11 WHEN SUBMITTING REQUESTS TO THE BOARD. AFTER THIS
12 THE MODEL PETITION AND PROCEDURES WILL BE
13 PRESENTED TO THE BOARD FOR YOUR APPROVAL.
14 MY NEXT AREA HAS TO DO WITH GLENN
15 COUNTY AND THE ISSUE OF TIRES. AND AS DIRECTED
16 AT LAST MONTH’S BOARD MEETING, STAFF IS
17 CONSIDERING WAYS TO WORK WITH GLENN COUNTY’S
18 PUBLIC WORKS PROPOSAL FOR VARIOUS END-USE PROJECTS
19 INVOLVING BALED WASTE TIRES.
20 AS I UNDERSTAND IT, THE BOARD
21 SUPPORTS THE PROPOSAL. AND THE QUESTION IS, HOW
22 SHOULD THE COUNTY RECEIVE THE NUMBER OF WASTE
23 TIRES IT NEEDS WITH THREE OPTIONS APPEARING MOST
24 VIABLE?
25 FIRST, STAFF COULD CONNECT GLENN

1 COUNTY WITH OWNERS OF ILLEGAL WASTE TIRES THAT THE
2 BOARD IS PURSUING ENFORCEMENT ACTIONS AGAINST.
3 THE COUNTY COULD MAKE ARRANGEMENTS WITH THE OWNERS
4 FOR THE NUMBER OF TIRES THEY NEED.
5 SECONDLY, GLENN COUNTY COULD HOLD A
6 TIRE AMNESTY DAY TO SUPPLY THE NEEDED WASTE TIRES
7 AND ELIMINATE SOME ILLEGAL TIRE PILES LOCATED
8 AROUND THE COUNTY.
9 AND FINALLY, THE BOARD COULD SUPPLY
10 GLENN COUNTY WITH TIRES FROM WASTE TIRE SITES IN
11 THE REGION THAT WE ARE CLEANING UP. THERE ARE
12 THREE POSSIBLE SITES FROM WHICH WE COULD DRAW.
13 WE WOULD NEED, HOWEVER, TO DETERMINE
14 HOW COST EFFECTIVE SUPPLYING TIRES TO THE PROJECTS
15 VERSUS OTHER REMEDIATION OPTIONS WOULD BE. IF THE
16 BOARD DESIGNATES THE END-USE OPTION FOR THE
17 REMEDIATION OF A SITE THE BOARD'S 30 PERCENT
18 INCENTIVE POLICY WOULD NOT APPLY.
19 AND SPEAKING OF TIRES, I'D LIKE TO
20 SPEAK BRIEFLY TO THE PROGRESS WE'RE MAKING WITH
21 OUR TIRE WORKING GROUP. ON OCTOBER 28TH THE AB
22 117 TIRE SUBGROUP DISCUSSED WASTE TIRE HAULER
23 MANIFESTS AND THE PROGRAM'S EFFECT ON TIRE
24 DEALERS. ANOTHER MEETING ON OCTOBER 30TH
25 CLARIFIED THE DEFINITION OF, QUOTE, "A WASTE

1 TIRE," AN ISSUE OF GREAT INTEREST TO STAKEHOLDERS
2 SINCE IT ULTIMATELY DETERMINES WHO IS IN OUR
3 REGULATORY OVERSIGHT.
4 IN DISCUSSIONS, THE CONCEPT OF
5 PLACING TIRE FACILITIES IN A TIERED PERMITTING
6 SYSTEM AND REDUCING THE REGULATORY BURDEN ON NON-
7 THREATENING OPERATIONS WAS INTRODUCED. THE
8 CONCEPT GREATLY DECREASED THE NEED TO DEFINE WASTE
9 TIRES AND COULD REDUCE THE REGULATORY BURDEN ON
10 THE BOARD AS WELL.
11 A THIRD MEETING OF THE TIRE SUBGROUP
12 WAS HELD JUST YESTERDAY ON THE ISSUES OF ILLEGAL
13 TIRE STOCKPILES AND ENFORCEMENT ISSUES. AND I HOPE
14 TO REPORT ITS FINDINGS TO YOU AT A LATER DATE.
15 AND THAT CONCLUDES MY REPORT FOR
16 TODAY. THANK YOU.

17 CHAIRMAN PENNINGTON: THANK YOU, MR.
18 CHANDLER.
19 ARE THERE ANY QUESTIONS OF MR.
20 CHANDLER?

21 REPORT ON THE 21ST CENTURY POLICY
22 DEVELOPMENT PROCESS. MR. EATON?

23 MEMBER EATON: YES, MR. CHAIR. THE GROUP
24 HAS GOTTEN TOGETHER LAST WEEK, AND WE ARE IN THE
25 PROCESS OF FINALIZING OUR LIST, PROBABLY TODAY.

1 AN INVITATION SHOULD GO OUT WITHIN THE NEXT COUPLE
2 OF DAYS, AT LEAST THE INITIAL. THE DATE TO
3 REITERATE HAS BEEN SET IN JANUARY 20TH IN THE
4 CITY OF INDUSTRY IN INDUSTRY HILLS. AND THINGS
5 ARE PROGRESSING. AND WE'LL UPDATE YOU ONCE THE
6 FINAL AGENDA IS OUT AND THE SPEAKERS HAVE BEEN
7 FINALIZED, HOPEFULLY BY THE NEXT MEETING.

8 CHAIRMAN PENNINGTON: OKAY. THANK YOU.
9 NOW WE'LL MOVE TO ITEM NO. 2, NEW
10 PERMIT FOR ANZA COLLECTION STATION. JULIE NAUMAN.
11 VII. NEW BUSINESS AGENDA ITEM
12 AGENDA ITEM 2:

13 MS. NAUMAN: GOOD MORNING, MR. CHAIRMAN
14 AND MEMBERS. THIS ITEM WILL BE PRESENTED BY DAVE
15 OTSUBO.

16 MR. OTSUBO: AND WITH ME TODAY IS ALSO
17 ONE OF THE RIVERSIDE LOCAL ENFORCEMENT AGENCY
18 STAFF, STEVE MOISE.
19 THIS ITEM REGARDS THE CONSIDERATION
20 OF CONCURRENCE IN THE ISSUANCE OF A NEW SOLID
21 WASTE FACILITY PERMIT FOR THE ANZA COLLECTION
22 COUNTY OF RIVERSIDE. THIS FACILITY IS LOCATED
23 WITHIN THE BOUNDARIES OF THE PERMITTED ANZA
24 SANITARY LANDFILL WHICH OPERATES ON A VERY LIMITED
25 SCHEDULE -- THE FIRST SATURDAY OF EACH MONTH.

1 SINCE THE AGENDA ITEM WAS SUBMITTED,
2 THE LEA HAS SUBMITTED A NEW FIRST PAGE FOR THE
3 PERMIT CONTAINING A MORE DETAILED DESCRIPTION OF
4 THE STATION'S LOCATION WITHIN THE LANDFILL AND A
5 NEW FACILITY ACREAGE OF 4.3 ACRES. AND I BELIEVE
6 YOU DO HAVE THAT PERMIT.
7 THE PROJECT ITSELF CONSISTS OF A
8 MAXIMUM OF 60 TONS PER DAY, WITH AN EXPECTED
9 AVERAGE OF ABOUT 20 TONS PER DAY. THE STATION
10 WILL OPERATE THURSDAY, FRIDAY, SATURDAY, SUNDAY
11 AND MONDAY, 8:00 TO 4:30.
12 THE OPERATOR IS WASTE MANAGEMENT OF
13 INLAND VALLEY, WHILE THE LAND IS OWNED BY THE
14 RIVERSIDE COUNTY WASTE MANAGEMENT DEPARTMENT.
15 THE FACILITY HAS A VERY SIMPLE DESIGN
16 CONSISTING OF A LARGE, RAISED ASPHALT PLATFORM
17 SURROUNDED BY BINS INTO WHICH MATERIAL IS
18 DEPOSITED. THERE'S A SIMILAR SITE IN RIVERSIDE
19 LOCATED IN IDYLLWILD.
20 IN REVIEWING THE SUBMITTED
21 DOCUMENTATION, THE LEA AND BOARD STAFF HAVE
22 DETERMINED THE FOLLOWING:
23 ONE, RIVERSIDE COUNTY NOW HAS A
24 COUNTY INTEGRATED WASTE MANAGEMENT PLAN. AND SINCE
25 THIS SITE WILL NOT BE REQUIRED TO RECOVER AT LEAST

1 FIVE PERCENT, NO FINDING OF CONFORMANCE IS
2 NECESSARY. AT THE TIME THAT THE ITEM WAS PREPARED,
3 THIS FINDING WAS NOT YET VERIFIED. AND SINCE THAT
4 TIME, THE BOARD'S OFFICE OF LOCAL ASSISTANCE HAS
5 BEEN ABLE TO MAKE THAT FINDING. AND ALSO, CEQA
6 HAS BEEN COMPLIED WITH. STAFF HAVE REVIEWED THE
7 PROPOSED PERMITS POINT DOCUMENTATION AND FOUND THEM
8 TO
9 BE ACCEPTABLE.

10 IN CONCLUSION, THE STAFF RECOMMENDS
11 THAT THE BOARD ADOPT SOLID WASTE FACILITY PERMIT
12 DECISION NO. 98-3 62, CONCURRING IN THE ISSUANCE
13 OF SOLID WASTE FACILITY PERMIT NO. 33AA0287.

14 THIS CONCLUDES STAFF'S PRESENTATION.

15 AND THERE ARE REPRESENTATIVES OF THE OPERATOR AND
16 ONE OF THE COUNTY SUPERVISORS IN THE AUDIENCE.

17 CHAIRMAN PENNINGTON: OKAY, THANK YOU.

18 ANY QUESTIONS?

19 I DON'T THINK ANY OF US -- DO ANY OF US HAVE
20 THE PERMIT? NO, I DON'T THINK ANY OF US HAVE A COPY OF
21 THE PERMIT. ANYBODY NEED IT?

22 ANYBODY NEED A COPY OF THIS?

23 MEMBER FRAZEE: I TAKE IT THAT'S AN ANALYSIS?

24 CHAIRMAN PENNINGTON: THERE YOU GO.

25 MEMBER JONES: MR. CHAIRMAN?

1 CHAIRMAN PENNINGTON: YES, MR. JONES?

2 MEMBER JONES: I'D LIKE TO MAKE A MOTION
3 THAT WE ADOPT RESOLUTION 98-362 FOR THE NEW SOLID
4 WASTE FACILITY PERMIT FOR THE ANZA COLLECTION
5 STATION IN RIVERSIDE COUNTY.

6 CHAIRMAN PENNINGTON: OKAY.

7 MEMBER FRAZEE: I SECOND.

8 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY
9 MR. JONES, SECONDED BY MR. FRAZEE. IF THERE'S NO
10 FURTHER DISCUSSION, WILL THE SECRETARY CALL THE
11 ROLL?

12 THE SECRETARY: BOARD MEMBER CHESBOROUGH,
13 ABSENT.
14 BOARD MEMBER EATON?

15 MEMBER EATON: AYE.

16 THE SECRETARY: FRAZEE?

17 MEMBER FRAZEE: AYE.

18 THE SECRETARY: JONES?

19 MEMBER JONES: AYE.

20 THE SECRETARY: RHOADS?

21 MEMBER RHOADS: AYE.

22 THE SECRETARY: CHAIRMAN PENNINGTON?

23 CHAIRMAN PENNINGTON: AYE.

24 THE MOTION CARRIES.

25 AND WE'LL MOVE TO ITEM NO. 3,

1 CONSIDERATION OF APPROVAL TO BEGIN A 45-DAY PUBLIC
2 COMMENT PERIOD FOR THE PERMANENT WASTE TIRE
3 STORAGE REGULATIONS. JULIE NAUMAN.

4 AGENDA ITEM 3:

5 MS. NAUMAN: MR. CHAIRMAN AND MEMBERS,
6 BERNIE VLACH WILL PRESENT THIS ITEM.

7 MR. VLACH: GOOD MORNING, MR. CHAIRMAN
8 AND BOARD MEMBERS. MY NAME IS BERNIE VLACH WITH
9 THE PERMITTING AND ENFORCEMENT STAFF.

10 THE ITEM BEFORE YOU THIS MORNING IS A
11 CONSIDERATION OF APPROVAL TO BEGIN A 45-DAY
12 COMMENT PERIOD FOR THE PERMANENT WASTE TIRE
13 STORAGE REGULATIONS.

14 YOU MAY RECALL THAT THIS ITEM WAS
15 PRESENTED TO YOU IN SEPTEMBER AT THE SANTA BARBARA
16 MEETING, AND THAT IT APPEARED TO MEET YOUR
17 APPROVAL WITH THE EXCEPTION THAT THERE WAS AN
18 ISSUE RELATING TO THE PROPOSED REVOCATION OF AN
19 EXCLUSION FOR MOVEABLE, ENCLOSED CONTAINERS FOR
20 STORAGE OF TIRES.

21 THE ISSUE RELATED TO THE USE OF THIS
22 EXCLUSION BY CERTAIN MEMBERS OF THE TIRE INDUSTRY,
23 PARTICULARLY THOSE THAT WERE IN THE PROCESS OF
24 OBTAINING PERMITS FOR COGENERATION FACILITIES.
25 AND, IN FACT, THERE IS AT LEAST ONE COGENERATION

1 FACILITY THAT IS IN EXISTENCE THAT USES THIS
2 PARTICULAR EXCLUSION.
3 AT YOUR REQUEST, STAFF USED THE
4 INTERVENING PERIOD TO CONSIDER ALTERNATIVES AND
5 OTHER OPTIONS TO MITIGATE THIS ISSUE. AND AFTER
6 SOME CONSIDERATION AND LOOKING AT VARIOUS OPTIONS,
7 IT WAS DETERMINED BY STAFF THAT SINCE THE
8 EXCLUSION HAD BEEN IN THE REGULATIONS FOR SOME
9 TIME -- SINCE THE INCEPTION OF THESE REGULATIONS,
10 AND IN AS MUCH AS THERE IS AN ONGOING PROCESS NOW
11 WITH AB 117 TO LOOK AT THESE KINDS OF ISSUES IN A
12 SLIGHTLY BROADER SENSE THAT THE BEST THING THAT
13 STAFF COULD OFFER AT THIS TIME THAT SEEMED
14 ACCEPTABLE TO THE INDUSTRY FOLKS WAS TO LEAVE THE
15 REGULATIONS AS THEY WERE, TO NOT RECOMMEND THE
16 REMOVAL OF THIS PARTICULAR EXCLUSION. AND THAT IS
17 WHAT THE DRAFT REGULATIONS THAT YOU CAN SEE IN
18 YOUR ATTACHMENT SHOW TODAY.
19 SO WITH THAT CHANGE AND CONSIDERING
20 THAT THESE REGULATIONS AT THIS POINT REALLY ONLY
21 AFFIRM THE CHANGES THAT THE BOARD MADE WITH THE
22 EMERGENCY REGULATIONS BACK IN JANUARY OF '98,
23 THERE REALLY IS NOT MUCH OF ANY SIGNIFICANCE IN
24 TERMS OF ADDITIONAL CHANGES BEING PROPOSED TO THE
25 CURRENT REGULATIONS.

1 I MIGHT POINT OUT THAT THERE IS ONE
2 FINANCIAL ASSURANCE OPTION THAT STAFF IS
3 INCLUDING. IT'S SORT OF A WILDCARD OPTION THAT'S
4 AVAILABLE FOR SOLID WASTE FACILITIES THAT HADN'T
5 BEEN INCLUDED IN THE TIRE REGULATIONS UP TO THIS
6 POINT. AND STAFF IS PROPOSING THAT THAT BE
7 INCLUDED AS WELL. THERE HASN'T BEEN ANY
8 CONTROVERSY OR ANY DISCUSSION OR EVEN ANY
9 REQUEST FOR THIS AT THIS TIME. BUT I JUST WANTED
10 TO POINT OUT THAT THAT IS THE ONLY OTHER MAJOR --
11 IF YOU CAN CALL IT THAT, MAJOR CHANGE TO THE
12 REGULATIONS.
13 SO WITH YOUR APPROVAL, THE 45-DAY
14 COMMENT PERIOD CAN GO FORWARD. AND WE WOULD THEN,
15 AFTER THAT TIME, BE BRINGING THIS ISSUE BACK TO
16 THE BOARD USING PERHAPS THE BOARD MEETING AS A
17 PUBLIC MEETING TO CONSIDER THE COMMENTS FOR THESE
18 REGULATIONS.
19 AND I WANTED TO POINT OUT THAT I HAD
20 MISTAKENLY PREPARED A RESOLUTION, 98-365, AND WAS
21 ADVISED BY LEGAL COUNSEL THAT THAT ISN'T REALLY
22 NECESSARY FOR YOU TO PASS A RESOLUTION ON THIS
23 ISSUE. YOUR MOTION AND APPROVAL IS ALL THAT'S
24 REALLY NECESSARY.
25 IF THERE ARE ANY QUESTIONS, I'D BE

1 HAPPY TO ANSWER THEM.

2 CHAIRMAN PENNINGTON: QUESTIONS? MR.

3 FRAZEE.

4 MEMBER FRAZEE: YES. BERNIE, I STILL

5 CONTINUE TO HAVE A LACK OF UNDERSTANDING OF THE

6 AGRICULTURAL EXEMPTION. AND I NOTICE IN THE LEAD

7 IN THE DEFINITIONS, THERE'S A DEFINITION OF

8 AGRICULTURAL PURPOSES. BUT THEN GOING OVER TO

9 WHERE THAT -- WELL, YEAH, IT'S STRICKEN LATER ON,

10 AND THEN I DON'T SEE ANY EXCLUSION. IS THAT

11 SOMEWHERE ELSE IN THE REGS, THE AGRICULTURAL

12 EXCLUSION?

13 MR. VLACH: THE AGRICULTURAL EXCLUSION I

14 BELIEVE, SIR, IS IN THE STATUTE.

15 MEMBER FRAZEE: IT'S IN THE STATUTE?

16 MR. VLACH: YES, SIR.

17 MEMBER FRAZEE: OKAY.

18 MR. VLACH: WE HAVE BEEN TRYING TO -- IN

19 SOME PLACES IT LOOKS AS THOUGH REGULATIONS WERE

20 STRICKEN. BUT, IN FACT, THE DEFINITIONS ARE ALREADY

21 IN THE STATUTE, AND STAFF IS SIMPLY TRYING TO CLEAN

22 UP SOME OF THESE REGULATIONS TO MOVE ALL THE

23 DEFINITIONS INTO ONE PLACE IN THE REGULATIONS AND

24 TO NOT REPEAT VERBATIM WHAT WE FIND IN THE

25 STATUTE.

1 MEMBER FRAZEE: I SEE. OKAY. I GUESS I
2 HAD THAT ANSWER ONCE BEFORE AND HAD FORGOTTEN IT.
3 CAN YOU TELL ME IF THAT AGRICULTURE
4 EXCLUSION WOULD EXTEND TO THE TRANSPORTATION OF
5 MORE THAN FIVE TIRES FOR AGRICULTURAL PURPOSES?

6 MR. VLACH: I BELIEVE IT DOES, BUT I'M
7 NOT REALLY PREPARED TO ANSWER THAT AT THIS MOMENT.

8 MEMBER FRAZEE: AND THEN IS -- THE POINT
9 I RAISED BEFORE IS THAT THIS DEFINITION IN THE
10 PROPOSED REGULATIONS IS RATHER NARROW ON WHAT
11 CONSTITUTES AGRICULTURAL PURPOSES. AND I
12 WONDERED, IS THAT BROADENED IN THE STATUTE, OR IS
13 THAT ALL THAT QUALIFIES UNDER THE EXCLUSION, THE
14 BUMPERS ON AGRICULTURAL EQUIPMENT AND BALLAST TO
15 MAINTAIN COVERS? BECAUSE THERE ARE SOME OTHER
16 COMMON AGRICULTURAL USES, SPECIFICALLY THE ROAD-
17 CROSSING, THE USE OF TIRES FOR MOVING TRACK-LAYING
18 EQUIPMENT CROSSROADS.

19 MR. VLACH: YES. I RECALL THIS
20 CONVERSATION -- OH, ELLIOT, DO YOU HAVE SOMETHING
21 TO SAY-22

 MR. BLOCK: IF I MAY, BOARD MEMBER
23 FRAZEE. YES. ACTUALLY, IN PUBLIC RESOURCES CODE
24 SECTION 42801 DEFINES AGRICULTURAL PURPOSES, AND
25 IT HAS BASICALLY THE SAME LIMITATIONS AS APPEAR IN

1 THE REGULATIONS.

2 MEMBER FRAZEE: OKAY. SO THEN SOMEONE
3 WHO TRANSPORTED 25 TIRES FOR THE PURPOSE OF LAYING
4 DOWN A VEHICLE, OR A TRACK-LAYING VEHICLE CROSSING
5 OF A COUNTY ROAD WOULD BE IN VIOLATION?

6 MR. BLOCK: THEY WOULDN'T QUALIFY UNDER
7 THIS EXEMPTION. THE STATUTORY EXEMPTION
8 APPEARS IN PUBLIC RESOURCES CODE SECTION 42831
9 (SIC, THE 42801 THEN 42831), AND SPECIFICALLY
10 ALLOWS THE BOARD TO EXEMPT A PERSON USING WASTE
11 TIRES FOR AGRICULTURAL PURPOSES IF THE WASTE TIRES
12 ARE KEPT ON THE SITE OF USE. SO IT'S A FAIRLY
13 LIMITED EXEMPTION IN THE STATUTE.

14 MEMBER FRAZEE: YOU'VE GOT TO GET THEM TO
15 THE SITE OF USE TO BEGIN WITH. BUT THAT JUST
16 SEEMS TO BE AN AREA THAT NEEDS A LITTLE MORE WORK.
17 AND IF THE PROVISION THAT ALLOWS US TO EXEMPT
18 COULD BE BROADENED BY REGULATION, I THINK IT'S
19 SOMETHING WORTH LOOKING AT.

20 MR. BLOCK: AND I'M NOT
21 ACTUALLY PART OF THE WORK GROUP THAT WAS MENTIONED
22 EARLIER, BUT I WOULD ASSUME THAT THAT'S SOMETHING
23 THAT'S BEING CONSIDERED BY THAT GROUP AS WE GO
24 FORWARD.

25 MEMBER FRAZEE: OKAY. GOOD.

1 CHAIRMAN PENNINGTON: VERY GOOD. ANY
2 OTHER QUESTIONS? OKAY. THANK YOU. I'LL ENTERTAIN A
3 MOTION.

4 MEMBER FRAZEE: MR. CHAIRMAN, IN AS MUCH
5 AS IT'S STATED THAT THE RESOLUTION IS NOT
6 NECESSARY, I WOULD THEN MOVE THAT THE BOARD
7 APPROVE THE START OF A 45-DAY PUBLIC COMMENT
8 PERIOD FOR PUBLIC WASTE TIRE STORAGE REGULATIONS.

9 MEMBER RHOADS: AND I'LL SECOND.

10 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
11 MOVED BY MR. FRAZEE AND SECONDED BY MR. RHOADS
12 THAT WE APPROVE BOARD OPTION NUMBER ONE.

13 IF THERE'S NO FURTHER DISCUSSION,
14 WILL THE SECRETARY CALL THE ROLL?

15 THE SECRETARY: BOARD MEMBER CHESBOROUGH,
16 ABSENT.

17 BOARD MEMBER EATON?

18 MEMBER EATON: AYE.

19 THE SECRETARY: FRAZEE?

20 MEMBER FRAZEE: AYE.

21 THE SECRETARY: JONES?

22 MEMBER JONES: AYE.

23 THE SECRETARY: RHOADS?

24 MEMBER RHOADS: AYE.

25 THE SECRETARY: CHAIRMAN PENNINGTON?

1 CHAIRMAN PENNINGTON: AYE.

2 THE MOTION CARRIES.

3 WE'LL NOW MOVE TO ITEM NO. 4,

4 CONSIDERATION OF THE PROPOSED RANKING CRITERIA AND

5 SCORING PROCESS FOR THE 199 8-99 FISCAL YEAR WASTE

6 TIRE ENFORCEMENT GRANT PROGRAM AND THE LOCAL

7 GOVERNMENT WASTE TIRE CLEANUP MATCHING GRANT

8 PROGRAM. JULIE NAUMAN.

9 AGENDA ITEM 4:

10 MS. NAUMAN: MR. CHAIRMAN, THIS ITEM WILL

11 BE PRESENTED JOINTLY BY SCOTT WALKER AND SUE

12 HAPPERSBERGER.

13 MS. HAPPERSBERGER: GOOD MORNING,

14 CHAIRMAN PENNINGTON AND BOARD MEMBERS. I AM SUE

15 HAPPERSBERGER WITH LEA SUPPORT SERVICES OF THE

16 BOARD'S PERMITTING AND ENFORCEMENT DIVISION.

17 SCOTT WALKER AND I WILL PRESENT THIS

18 ITEM FOR CONSIDERATION OF PROPOSED RANKING

19 CRITERIA AND SCORING PROCESS FOR THE '98-99 WASTE

20 TIRE ENFORCEMENT GRANT PROGRAM AND LOCAL

21 GOVERNMENT WASTE TIRE CLEANUP MATCHING GRANT

22 PROGRAM. I WILL COVER THE PROPOSED CRITERIA FOR

23 THE WASTE TIRE ENFORCEMENT GRANTS, AND SCOTT WILL

24 THEN COVER THE PROPOSED CRITERIA FOR THE CLEANUP

25 MATCHING GRANTS.

1 ON SEPTEMBER 25TH, 1996, THE BOARD
2 ADOPTED STANDARDIZED GENERAL GRANT REVIEW CRITERIA
3 FOR ALL COMPETITIVE BOARD GRANTS AND PROCEDURES
4 FOR PRESENTING THE GRANT SCORING CRITERIA AND
5 EVALUATION PROCESS TO THE BOARD. THE PROPOSED
6 RANKING AND SCORING CRITERIAS HAVE BEEN REVIEWED
7 BY THE GRANTS ADMINISTRATION UNIT TO ENSURE THEIR
8 ADEQUACY.
9 UPON APPROVAL OF THE RESPECTIVE
10 SCORING CRITERIAS, NOTICES OF FUNDING AVAILABILITY
11 WILL BE IS SUED TO SOLICIT GRANT APPLICATIONS FOR
12 BOTH PROGRAMS. AFTER REVIEW OF THE APPLICATIONS,
13 STAFF WILL BRING BACK RECOMMENDATIONS FOR THE '98-
14 99 GRANT AWARDS. IN ADDITION, IN MAY, 1999, STAFF
15 WILL BRING FORWARD TO THE BOARD THE RESULTS OF THE
16 '97-98 GRANTS.
17 \$500,000 HAS BEEN ALLOCATED FOR THE
18 UPCOMING '98-99 WASTE TIRE ENFORCEMENT GRANT
19 PROGRAM. THE INTENT OF THE WASTE TIRE ENFORCEMENT
20 GRANT PROGRAM IS TO GRANT MONIES TO INTERESTED
21 LOCAL GOVERNMENTAL AGENCIES TO INVESTIGATE WASTE
22 TIRE FACILITIES AND SURVEY TIRE DEALERS AND AUTO
23 DISMANTLERS TO ENSURE COMPLIANCE WITH ALL
24 APPLICABLE WASTE TIRE LAWS AND REGULATIONS.
25 THE GRANT PROGRAM OFFERS TWO OPTIONS.

1 OPTION ONE INCLUDE S CONDUCTING WASTE TIRE FACILITY
2 INSPECTIONS OF THOSE FACILITIES THAT ACCEPT OR
3 STORE MORE THAN 500 WASTE TIRES AT ONE LOCATION
4 AND FOLLOWING UP WITH APPROPRIATE COMPLIANCE
5 ACTIONS TO ENSURE THAT THE OPERATORS ARE FOLLOWING
6 ALL TIRE FACILITY REGULATIONS, INCLUDING STORAGE
7 STANDARDS AND USING REGISTERED TIRE HAULERS.
8 THIS OPTION ALSO INCLUDES SURVEY
9 ACTIVITIES WHEREBY THE GRANTEE CONDUCTS WASTE TIRE
10 FACILITY SURVEYS OF TIRE DEALERS AND AUTO
11 DISMANTLERS WHO ACCEPT OR STORE WASTE TIRES ON
12 SITE.
13 AND OPTION TWO INCLUDES ONLY SURVEY
14 ACTIVITIES.
15 THERE HAS BEEN NO CHANGE IN THE WASTE
16 TIRE ENFORCEMENT RANKING AND SCORING CRITERIA
17 SINCE THE ONSET OF THIS PROGRAM. THE UPCOMING
18 '98-99 GRANTS WILL BE OUR THIRD GRANT CYCLE.
19 IN THE '96-97 AND '97-98 GRANT CYCLES,
20 THERE WAS ADEQUATE FUNDING ALLOCATED TO SATISFY
21 ALL WASTE TIRE ENFORCEMENT GRANT REQUESTS THAT MET
22 THE MINIMUM SCORING CRITERIA REQUIREMENTS.
23 THEREFORE, NO QUALIFIED WASTE TIRE ENFORCEMENT
24 GRANT REQUESTS HAVE BEEN TURNED DOWN TO DATE.
25 THIS CONCLUDES MY PRESENTATION.

1 UNLESS THE BOARD MEMBERS HAVE QUESTIONS FOR STAFF
2 AT THIS TIME, SCOTT WALKER WILL PRESENT THE
3 SCORING CRITERIA FOR THE MATCHING CLEANUP GRANTS.

4 CHAIRMAN PENNINGTON: OKAY.

5 MR. WALKER: THE LOCAL GOVERNMENT WASTE
6 TIRE CLEANUP MATCHING GRANT PROGRAM PROVIDES
7 FUNDING TO LOCAL GOVERNMENTS FOR CLEANUP OF WASTE
8 TIRE PILES STATEWIDE. THE INTENT IS THE LEGACY
9 PILES.

10 ALLOCATION FOR THIS PROGRAM IS
11 \$150,000 FOR FISCAL YEAR '98-99. THERE'S A GRANT
12 LIMIT OF UP TO \$50,000 PER APPLICANT.
13 GRANT QUALIFYING CRITERIA IS PROPOSED
14 TO REMAIN THE SAME AS APPROVED BY THE BOARD LAST
15 YEAR, EXCEPT FOR ONE PROPOSED ADDITION. STAFF ARE
16 PROPOSING TO ALLOW FOR PAYMENT OF COSTS FOR END
17 USE OF WASTE TIRE SITES UPON SITE CLEANUP, NOT
18 INCLUDING RESEARCH. STAFF BELIEVES THIS WOULD
19 POTENTIALLY HELP IMPLEMENT THE BOARD'S OVERALL
20 DIRECTION TO ENHANCE LEGITIMATE END USES FOR
21 REMEDIATED WASTE TIRE SITES.

22 THE SCORING PROCESS REQUIRES A
23 MINIMUM OF 75 POINTS OUT OF 100 GENERAL-REVIEW
24 POINTS, WITH THE ADDITION OF UP TO 30 PREFERENCE
25 POINTS. OVER THE THREE GRANT CYCLES OF THIS

1 PROGRAM, THE BOARD HAS NOT HAD TO REJECT ANY
2 QUALIFYING APPLICANT. AND THIS IS SIMILAR TO THE
3 ENFORCEMENT GRANT PROGRAM. THE DEMAND HAS
4 BASICALLY NOT EXCEEDED THE AVAILABILITY.
5 A BRIEF SUMMARY OF THE STATUS OF THE
6 CLEANUP GRANTS. THERE WAS ONE GRANT AWARDED FOR
7 \$25,000 IN '96-97. THIS GRANT HAS BEEN TERMINATED
8 WITH NO FUNDS EXPENDED.
9 THERE ARE SIX GRANTS SIGNED, AND THERE
10 ARE TWO UNDER NEGOTIATION FOR THE '97-98 AWARDS.
11 AN ESTIMATED 118,410 TIRES WILL BE CLEANED UP WITH
12 \$171,286.
13 AN ADDITIONAL GRANT AGREEMENT IS
14 BEING NEGOTIATED WITH A RURAL COUNTY, INYO COUNTY,
15 FOR EQUIPMENT PURCHASE, WITH \$28,714 AUGMENTED TO
16 \$100,000 IF NECESSARY FROM THE '96-97 TERMINATED
17 GRANT AND/OR THE WASTE TIRE AND STABILIZATION
18 PROGRAM.
19 IN CONCLUSION, STAFF RECOMMEND
20 APPROVAL OF RESOLUTIONS NOS. 98-3 65 AND 98-366,
21 APPROVING THE RANKING CRITERIA AND SCORING PROCESS
22 FOR THE '98-99 WASTE TIRE ENFORCEMENT GRANT AND
23 LOCAL GOVERNMENT WASTE TIRE CLEANUP GRANT
24 PROGRAMS.
25 THIS CONCLUDES OUR PRESENTATION.

1 STAFF ARE AVAILABLE TO ANSWER ANY QUESTIONS ON
2 EITHER PROGRAM.

3 CHAIRMAN PENNINGTON: QUESTIONS? MR.
4 EATON?

5 MEMBER EATON: I JUST HAVE A COUPLE OF
6 QUESTIONS, MAINLY ON PROCEDURAL KINDS OF QUESTIONS
7 IN THE SCORING.

8 I NOTICE UNDER THE WAIVERS YOU CAN --
9 ONE OF THE WAIVERS IS FOR LESS THAN 500 TIRES.
10 CAN YOU JUST TELL ME HOW THE WAIVER PROCESS WORKS
11 FOR EITHER OF THESE PROGRAMS?

12 MR. WALKER: WHAT WE DO IS, WE SPECIFY
13 THE CRITERIA AND THAT IF THE APPLICANT - - THE
14 APPLICANT DOES HAVE THE ABILITY TO PROPOSE WAIVER
15 FROM THE 500 LIMIT, TO PROPOSE THAT THEY HAVE TO
16 JUSTIFY THAT, AND WHY THEY WANT TO DO THAT, AND TO
17 ENSURE THAT THAT PARTICULAR SITE OR SITES WILL
18 MATCH ALL THE OTHER CRITERIA.

19 MEMBER EATON: SO IN THE CRITERIA, THE
20 500, IF I COME IN AND APPLY, IT'S THE WAIVER -- I
21 COULD GET THE SAME NUMBER OF POINTS WHETHER I HAVE
22 499 TIRES AS OPPOSED TO 10,000. IT'S JUST THAT I
23 HAVE TO GO TO THE WAIVER. SO IT'S NOT BASED ON
24 CRITERIA. IT'S BASED ON CIRCUMSTANCES.

25 MR. WALKER: PRIMARILY, UNLESS THERE IS

1 SOME IMPACT ON THE OTHER SCORING. YOU KNOW, IF WE
2 COMPARED IT WITH ANOTHER SITE AND THERE WAS NOT
3 ENOUGH MONEY FOR THE SITES, IT MAY NOT COMPARE IN
4 TERMS OF THE -- ANOTHER APPLICANT.

5 MEMBER EATON: I WAS JUST ASKING SINCE SOME
6 PEOPLE UP HERE -- AND I HAVE JUST A MORE OF A POLICY
7 QUESTION. MY UNDERSTANDING THAT UNDER OUR RMDZ
8 LOAN PROGRAM, WE CAN MAKE LOANS TO PUBLIC ENTITIES,
9 CORRECT? I BELIEVE THAT'S THE CASE.

10 MR. WALKER: THAT'S MY UNDERSTANDING.
11 AGAIN, I'M NOT -- IT'S NOT PART OF MY PROGRAM, SO
12 I'M NOT TOTALLY KNOWLEDGEABLE ON THAT.

13 MEMBER EATON: DO YOU SEE ANY CONFLICT
14 WHERE WE HAVE ONE BOARD PROGRAM THAT ALLOWS FOR
15 THE LOANING OF MONEY FOR THE PURCHASE OF EQUIPMENT,
16 AND ONE PROGRAM, SUCH AS THIS, WHERE WE GIVE THE
17 MONEY, SO THAT ONE PROGRAM --
18 I MEAN, I KNOW THIS IS FLUSH HERE. WE
19 HAVE MORE DEMAND FOR IT. I'M TRYING TO GET THE
20 RMDZ STUFF GOING. AND ON THE ONE HAND, WE'RE
21 SAYING IT'S KIND OF -- THEY SEEM SOMEWHAT
22 INCONSISTENT IN THE FACT THAT ON THE ONE HAND, THE
23 ENTITIES WOULD NOT COME TO SEEK ASSISTANCE UNDER
24 THE RMDZ WHEN THEY CAN GO AND GET MONEY IN A
25 GRANT. YOU KNOW, WHY DO I -- I'LL TAKE THE MONEY

1 IF I DON'T HAVE TO PAY IT BACK.

2 I'M JUST KIND OF -- JUST FROM A

3 POLICY PERSPECTIVE, DO YOU SEE ANY REAL IMPACT?

4 AND I'M JUST -- YOU KNOW, JUST KIND OF THOUGHTS,

5 AND MAYBE THAT WAS --JUST CAUGHT YOU OFF GUARD, BUT I

6 JUST SEE SOMEWHAT OF AN INCONSISTENT POLICY IN THE

7 SENSE -- BETWEEN TWO BOARD PROGRAMS -- AND IF IT

8 HAS ANY REAL IMPACT.

9 MR. WALKER: ONE THING, THE EQUIPMENT FOR

10 THE LOCAL GOVERNMENT MATCHING GRANT IS DIFFERENT.

11 IT HAS TO BE TIED TO CLEANUP OF A SITE FOR ONE

12 THING.

13 THE OTHER ASPECT OF IT IS, IT IS

14 CASE-BY-CASE. AND IT'S PRIMARILY TIED WITH THE

15 INYO COUNTY SITUATION IN WHICH, NUMBER ONE, WE

16 DIDN'T GET ENOUGH DEMAND FOR THE GRANT PROGRAM THE

17 WAY WE HAD IT. AND INYO WAS REQUESTING, PURSUANT

18 TO THIS, TO TIE THE EQUIPMENT IN PART TO THEIR

19 CLEANUP OF THE SITE. AND THAT'S WHY WE CAME WITH

20 THAT CASE-BY-CASE CONSIDERATION OF A WAIVER OF

21 THAT LAST YEAR.

22 SO I DON'T SEE A CONFLICT WITH THE

23 RMDC (SIC). I SEE IT TIED MORE TO SPECIFICALLY TO SITE

24 CLEANUP.

25 AND CERTAINLY IF - - YOU KNOW, WE INVOLVE IN THE

1 RANKING AND SCORING STAFF FROM DIFFERENT DIVISIONS
2 AND ADMIN, AND WE'RE ALWAYS COGNIZANT AND TRYING
3 TO MAKE SURE WE'RE NOT STEPPING ON EACH OTHER'S
4 TOES.

5 MEMBER JONES: MR. CHAIRMAN?

6 CHAIRMAN PENNINGTON: YES, MR. JONES.

7 MEMBER JONES: I THINK I MAY HAVE MISLED
8 MR. EATON JUST A LITTLE BIT ON THOSE TWO PROGRAMS.
9 AND I JUST WANT TO -- HE'S RIGHT IN HOW THEY DO
10 IT.

11 INYO COUNTY WANTED US TO COME IN AND
12 CLEAN UP THE PROJECT, BUT IT WOULD HAVE BEEN --
13 THERE WOULDN'T HAVE BEEN ANYTHING THERE FOR
14 ONGOING TIRES COMING IN SO THE PROBLEM COULD HAVE
15 REOCCURRED.
16 AND ONE OF THE THINGS WE CAME UP WITH
17 WAS A WAY TO PROVIDE EQUIPMENT FUNDING NOT ONLY TO
18 HELP FACILITATE THE CLEANUP OF THE FACILITY, BUT
19 TO HELP IN THE ONGOING TIRE DELIVERY TO THAT SITE
20 THAT'S JUST PART OF THEIR EVERYDAY WASTE DISPOSAL
21 SERVICES. AND I THINK ONE OF THE CONDITIONS WAS
22 IF ANOTHER COUNTY OR ANOTHER JURISDICTION
23 SOMEWHERE AROUND HAD A PROBLEM, THEY'D GET TO USE
24 THAT EQUIPMENT. THAT WAS WHAT WE HAD ORIGINALLY
25 SAID.

1 AND I THINK THAT I'D JUST SAY THAT
2 BECAUSE IT WAS A DIFFERENT -- WE HAD TO WORK TO
3 MAKE SURE WE DIDN'T JUST GO IN AND CLEAN UP
4 SOMEBODY'S MESS WITHOUT MAKING SURE THEY WERE
5 GOING TO COME TO THE TABLE AND DO SOME OF THE
6 WORK.
7 SO -- BUT YOU'RE RIGHT, BECAUSE I
8 THINK THAT MOST PROGRAMS CAN BE USED AS A
9 DISINCENTIVE.
10 SO I JUST WANTED TO LAY THAT OUT, BECAUSE IT WAS--IT
11 DOES THROW A LITTLE CRINKLE TO IT.
12 MR. WALKER: I ALSO WANTED TO ADD THAT
13 BEYOND THE ONGOING TIRE FLOW AND THE LOANING TO
14 OTHER COUNTIES, WE HAVE A BOARD MANAGED CLEANUP
15 THAT'S STARTING NEXT WEEK, ACTUALLY, WITH THE
16 CONTRACTOR. AND ULTIMATELY THEY WOULD ALSO
17 PROBABLY USE THE EQUIPMENT TO, IN PART, TAKE CARE
18 OF SOME OF THE TIRES. BECAUSE RIGHT NOW WE'RE
19 GOING TO -- IT LOOKS LIKE WE'RE GOING TO LEAVE THE
20 RIMMED TIRES. THEY HAVE A RECYCLER WHO'S GOING TO
21 TAKE THE RIMS OUT, AND THEN THEY'RE GOING TO HAVE
22 THE RESIDUAL. SO THEY WILL BE PART OF THAT.
23 THAT'S GOING TO REDUCE OUR COSTS FOR THE OVERALL
24 REMEDIATION.

25 CHAIRMAN PENNINGTON: MR. FRAZEE?

1 MEMBER FRAZEE: YES. ON THE SUBJECT OF
2 RMDZ LOANS VERSUS GRANTS, I THINK WE HAVE TO LOOK
3 AT THE DRIVING FORCE BEHIND THE TWO. THE RMDZ
4 LOANS, WHAT DRIVES THAT PROGRAM IS MARKETS AND
5 DEVELOPMENT OF MARKETS. WHERE THE -- WHAT DRIVES
6 THESE GRANTS IS THE CLEANUP PURPOSE, THE IDEA OF
7 GETTING THOSE CLEANED UP. AND THERE'S SOME TIE-IN
8 THERE, BUT I THINK IT REALLY GOES TO WHAT IS THE
9 ULTIMATE GOAL OF THE TWO PROGRAMS, AND THEY'RE
10 ENTIRELY SEPARATE.

11 CHAIRMAN PENNINGTON: CAREN?

12 MS. TRGOVCICH: CAREN TRGOVCICH WITH
13 WASTE PREVENTION MARKET DEVELOPMENT DIVISION.
14 JUST TO CLARIFY ON THE LOAN ELEMENT,
15 A PUBLIC ENTITY IS ENTITLED TO COME FORWARD AND
16 SUBMIT AN APPLICATION FOR A LOAN. THE LOAN,
17 HOWEVER, IS TIED TO SPECIFIC PUBLIC INFRASTRUCTURE
18 PROJECTS WITH AN ONGOING MARKET, AND THESE
19 CRITERIA ARE SPECIFIED IN STATUTE.
20 WE HAVE ATTEMPTED TO SOLICIT SOME
21 INVOLVEMENT OF SOME LOCAL GOVERNMENTS IN THIS
22 REGARD, BUT IT'S BEEN DIFFICULT TO MEET THAT
23 INFRASTRUCTURE AND LONG-TERM MARKET CONNECTION
24 SPECIFIED IN THE STATUTE. I DON'T BELIEVE THAT
25 THESE TYPES OF CLEANUPS WOULD MEET THAT

1 DEFINITIONAL REQUIREMENT.

2 MEMBER JONES: UNLESS THEY WANTED TO CREATE A
3 MARKET AND BE IN THAT BUSINESS, RIGHT?

4 MS. TRGOVCICH: AND THAT THE LOAN WOULD
5 THEREFORE BE FOR THE INFRASTRUCTURE NECESSARY TO
6 SUPPORT THE ACTIVITY.

7 MEMBER JONES: GOOD. OKAY. AND I THINK
8 THAT'S WHAT WE'RE SAYING.

9 MEMBER EATON: YEAH, AND I THANK YOU FOR THE
10 CLARIFICATION. I JUST WANT TO MAKE SURE WE DON'T
11 PROVIDE ONE DISINCENTIVE FOR OTHER TYPES OF PROGRAMS
12 OVERALL.

13 MEMBER JONES: GOOD POINT.

14 CHAIRMAN PENNINGTON: OKAY. ANY FURTHER
15 QUESTIONS OF STAFF? IF NOT --

16 MEMBER JONES: MR. CHAIRMAN?

17 CHAIRMAN PENNINGTON: MR. JONES.

18 MEMBER JONES: I'D LIKE TO MOVE
19 RESOLUTION NO. 98-3 63, APPROVAL OF PROPOSED
20 RANKING CRITERIA AND SCORING PROCESS FOR FISCAL
21 YEAR '98-99 FOR THE TIRE ENFORCEMENT GRANT
22 PROGRAM.

23 MEMBER EATON: AND I'LL SECOND THAT MOTION.

24 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN
25 MOVED BY MR. JONES AND SECONDED BY MR. EATON.

1 IF THERE'S NO FURTHER DISCUSSION,

2 WILL THE SECRETARY CALL THE ROLL?

3 THE SECRETARY: BOARD MEMBER CHESBOROUGH,

4 ABSENT.

5 BOARD MEMBER EATON?

6 MEMBER EATON: AYE.

7 THE SECRETARY: FRAZEE?

8 MEMBER FRAZEE: AYE.

9 THE SECRETARY: JONES?

10 MEMBER JONES: AYE.

11 THE SECRETARY: RHOADS?

12 MEMBER RHOADS: AYE.

13 THE SECRETARY: CHAIRMAN PENNINGTON?

14 CHAIRMAN PENNINGTON: AYE.

15 THE MOTION CARRIES.

16 MEMBER EATON: I GUESS I'LL MOVE

17 RESOLUTION 98-3 66 WITH REGARD TO THE RANKING

18 CRITERIA AND SCORING PROCESS FOR LOCAL GOVERNMENT

19 CLEANUP MATCHING GRANT PROGRAMS.

20 MEMBER JONES: I'LL SECOND.

21 CHAIRMAN PENNINGTON: OKAY. IT'S BEEN MOVED BY

22 MR. EATON, SECONDED BY MR. JONES, THE ADOPTION OF

23 98-366.

24 IF THERE'S NO FURTHER DISCUSSION,

25 WILL THE SECRETARY CALL THE ROLL?

1 THE SECRETARY: BOARD MEMBER CHESBOROUGH,
2 ABSENT.

3 BOARD MEMBER EATON?

4 MEMBER EATON: AYE.

5 THE SECRETARY: FRAZEE?

6 MEMBER FRAZEE: AYE.

7 THE SECRETARY: JONES?

8 MEMBER JONES: AYE.

9 THE SECRETARY: RHOADS?

10 MEMBER RHOADS: AYE.

11 THE SECRETARY: CHAIRMAN PENNINGTON?

12 CHAIRMAN PENNINGTON: AYE.

13 THE MOTION CARRIES.

14 MOVE TO ITEM NO. 5, CONSIDERATION OF

15 APPROVAL OF AUGMENTATION OF ENGINEERING AND

16 ENVIRONMENTAL SERVICES CONTRACT AND UPDATE OF THE

17 CONTRACT STATUS.

18 JULIE NAUMAN.

19 AGENDA ITEM 5:

20 MS. NAUMAN: MR. CHAIRMAN AND MEMBERS,

21 THIS ITEM WILL BE PRESENTED BY STACY PATENAUE,

22 AND OUR CONTRACTOR IS ALSO WITH US TODAY.

23 CHAIRMAN PENNINGTON: VERY GOOD.

24 MS. PATENAUE: GOOD MORNING CHAIRMAN

25 PENNINGTON, BOARD MEMBERS. I'M STACY PATENAUE. I

1 WORK IN THE TIRE REMEDIATION SECTION HERE AT THE
2 BOARD.
3 THIS ITEM IS REGARDS THE
4 CONSIDERATION OF AUGMENTATION OF THE ENGINEERING
5 AND ENVIRONMENTAL SERVICES CONTRACT AND AN UPDATE
6 OF THE CURRENT CONTRACT STATUS. THIS 1997-9 8
7 ENGINEERING CONTRACT WAS AWARDED IN MAY OF 1998
8 AND WILL EXPIRE MAY 15TH OF 2000.
9 THE PURPOSE OF THIS CONTRACT IS TO
10 ASSIST IN THE DEVELOPMENT OF CIVIL ENGINEERING
11 REUSE OF WASTE TIRES AND TO SUPPLY ENGINEERING AND
12 TECHNICAL EXPERTISE IN THE SUPPORT OF WASTE TIRE
13 REMEDIATION PROGRAM.
14 DANA HUMPHREY, OUR CURRENT
15 CONTRACTOR, WILL BE PRESENTING THE UPDATE OF THE
16 STATUS OF THE CONTRACT. AND I WOULD LIKE TO
17 INTRODUCE DR. DANA HUMPHREY NOW.
18 MR. HUMPHREY: THANK YOU VERY MUCH. MY
19 NAME IS DANA HUMPHREY. I'M A CONSULTANT TO THE
20 WASTE BOARD ON CIVIL ENGINEERING APPLICATIONS OF
21 SCRAP TIRES.
22 I THINK IT'S VERY EXCITING TO BE
23 LOOKING AT CIVIL ENGINEERING APPLICATIONS IN
24 CALIFORNIA, BECAUSE NATIONWIDE CIVIL ENGINEERING
25 APPLICATIONS OF SCRAP TIRES IS SECOND ONLY TO

1 TIRE-DERIVED FUEL AND ITS ABILITY TO CONSUME
2 TIRES. THIS YEAR, IT'S ESTIMATED THAT
3 APPROXIMATELY 18 MILLION TIRES WILL BE USED FOR
4 CIVIL ENGINEERING APPLICATIONS. HOWEVER, THIS
5 PARTICULAR APPLICATION IN CALIFORNIA HAS BEEN
6 EXPLOITED ONLY TO A VERY SMALL DEGREE.
7 NOW, THE REASON WHY IT'S EXCITING IN
8 CALIFORNIA IS THE TYPES OF THINGS WE ARE DOING IS
9 USING TIRE SHREDS AS LIGHTWEIGHT FILL ON WEAK
10 SOILS, AS BACKFILL BEHIND RETAINING WALLS, AS
11 DRAINAGE LAYERS OF LANDFILLS. AND CALIFORNIA HAS
12 THE RIGHT SOIL TYPES AND LANDSLIDE PROBLEMS TO
13 REQUIRE VERY LARGE QUANTITIES OF TIRES.
14 TO GIVE YOU AN EXAMPLE OF THE TYPES
15 OF QUANTITIES THAT CAN BE CONSUMED ON A TYPICAL
16 CIVIL ENGINEERING PROJECT, A TYPICAL LIGHTWEIGHT
17 FILL FOR A HIGHWAY EMBANKMENT THAT IS 400 FEET
18 LONG WOULD CONSUME APPROXIMATELY ONE MILLION
19 TIRES. SO EVEN IF THERE ARE ONLY A HALF-A-DOZEN
20 OF THESE PROJECTS IN CALIFORNIA EACH YEAR, YOU
21 COULD SEE THAT WE HAVE A VERY LARGE POTENTIAL TO
22 USE SCRAP TIRES.
23 WHAT'S NEEDED TO MAKE THIS HAPPEN IN
24 CALIFORNIA TO A LARGE EXTENT IS EDUCATION AND
25 TECHNOLOGY TRANSFER. BECAUSE THE INFORMATION TO

1 SUCCESSFULLY CONSTRUCT THESE PROJECTS IS
2 AVAILABLE. ITS BEEN DEVELOPED AND USED IN OTHER
3 STATES. AND WE REALLY NEED TO GET THE MAJOR USERS
4 IN CALIFORNIA EDUCATED AND READY TO USE SCRAP
5 TIRES.
6 ONE OF THE PRIMARY FOCUSES OF OUR
7 EFFORTS HAS BEEN THE CALIFORNIA DEPARTMENT OF
8 TRANSPORTATION. THE REASON FOR THAT IS, IS THEY
9 HAVE A VERY LARGE CONSTRUCTION BUDGET. THEY ARE
10 BUILDING LARGE PROJECTS THAT CAN CONSUME TIRES IN
11 THE QUANTITIES THAT WE ARE TALKING ABOUT.
12 WE ARE ALSO LOOKING AT COUNTIES, AND
13 WE HAVE MADE ONE ATTEMPT TO REACH OUT TO COUNTIES
14 THROUGH THEIR COUNTY ENGINEERS. WE HAVE
15 DISCOVERED THAT THAT IS NOT THE CORRECT APPROACH
16 TO USE, AND WE ARE GOING TO -- BECAUSE THEY
17 PRIMARILY HAVE THEIR DESIGNS DONE BY CONSULTANTS
18 THAT THEY HIRE TO DO THEIR WORK. SO WE NEED TO
19 TAKE A STEP BACKWARD ON THAT PARTICULAR EFFORT AND
20 MOVE OUT AND REACH DIRECTLY TO THE CONSULTANTS
21 THAT, IN TURN, WILL BE HIRED BY THE COUNTIES,
22 WHICH IS AN EFFORT, IN FACT, THAT WE WILL DO.
23 JUST TO GIVE YOU AN IDEA OF THE THINGS WE'VE
24 ACCOMPLISHED TO DATE, WE'VE BEEN WORKING CLOSELY
25 WITH THE CALIFORNIA DEPARTMENT OF

1 TRANSPORTATION. WE ARE AT THE POINT NOW WHERE THEY
2 HAVE TENTATIVELY AGREED TO A DEMONSTRATION PROJECT
3 ON ROUTE 116 IN SONOMA COUNTY. THE BEST WAY TO
4 DESCRIBE THIS PROJECT, THIS IS A WAY WE CAN TAKE
5 AND GET OUR BIG TOE WET WITH THE CALIFORNIA
6 DEPARTMENT OF TRANSPORTATION. IT'S A SMALL
7 PROJECT THAT WILL BE USED TO STABILIZE A
8 LANDSLIDE, THAT WILL USE ABOUT 100,000 TO 150,000
9 TIRES. BUT THIS WAS A PROJECT WE WERE ABLE TO --
10 VERY EARLY IN THE CONTRACT TO GET A TENTATIVE OKAY
11 FROM CALTRANS.
12 I MENTIONED THAT AN IMPORTANT PART OF
13 WHAT WE'RE DOING IS TECHNOLOGY TRANSFER. SO WE'VE
14 REACHED OUT IN SEVERAL DIFFERENT DIRECTIONS TO
15 CALTRANS AND OTHER ORGANIZATIONS. AND SOME OF THE
16 THINGS WE'VE DONE HAVE INCLUDED TWO TWO-HOUR
17 PRESENTATIONS TO CALIFORNIA DEPARTMENT OF
18 TRANSPORTATION ENGINEERS IN OAKLAND AND AGAIN IN
19 SACRAMENTO TO GET THEM HOOKED ON THE IDEA.
20 WE WERE SUCCESSFUL AT GETTING THEM
21 HOOKED ON THE IDEA. THEY INVITED US BACK TO HAVE
22 A SIX-HOUR SHORT COURSE THAT WE GAVE YESTERDAY TO
23 ENGINEERS AT THE CALTRANS OFFICE. THAT COURSE WAS
24 ATTENDED BY APPROXIMATELY 20 OF THEIR ENGINEERS.
25 THEY ARE VERY INTERESTED AND INTRIGUED. AND NOW

1 WHAT THEY ARE DOING IS LOOKING FOR REAL PROJECTS
2 THEY CAN TAKE AND USE THIS ON.
3 ONE OF THEIR SECTION CHIEFS -- THEIR
4 COMMENT WHEN WE WERE WALKING OUT THE DOOR AT THE
5 END YESTERDAY WAS THE ASSIGNMENT FOR THE
6 ENGINEERS IN MY GROUP IS TO FIND YOU A COUPLE OF
7 PROJECTS. SO WE'RE AT THE POINT NOW WHERE WE'VE
8 GOT THEM INTERESTED. AND WE NEED TO KEEP THE
9 PRESSURE ON TO MAKE SURE THEY'RE GOING TO BE ABLE
10 TO FOLLOW THROUGH AND DEVELOP SOME PROJECTS.
11 THE CHALLENGE FOR US, IN TERMS OF
12 THIS CONTRACT AND WORKING WITH CALTRANS, IS EVEN
13 THOUGH IT SEEMS LIKE WE HAVE A LOT OF TIME LEFT IN
14 THE CONTRACT, OUR WINDOW OF OPPORTUNITY IS THE
15 CONSTRUCTION SEASON NEXT SUMMER. THOSE PROJECTS
16 ARE BEING ACTIVELY DESIGNED BY CALTRANS AS WE
17 SPEAK. AND WE NEED TO BE AND ARE GOING TO BE
18 WORKING WITH THEM VERY CLOSELY TO GET TIRE SHREDS
19 INCORPORATED IN SOME OF THOSE PROJECTS.
20 NOW, AS MOST OF YOU KNOW, ABOUT A
21 MONTH AGO I MADE A THREE-HOUR PRESENTATION AT THE
22 TIRE CONFERENCE HELD IN SAN JOSE. THAT'S ANOTHER
23 IMPORTANT WAY TO TRY TO GET THE MESSAGE OUT.
24 AND ANOTHER COMPONENT TO GET THE
25 MESSAGE OUT IS WORKING WITH TIRE SHREDDERS. AND

1 WE'VE HAD MEETINGS WITH SEVERAL TIRE SHREDDERS IN
2 THE STATE. AND THE REASON THAT THEY ARE IMPORTANT
3 IS, WORKING ON A CIVIL ENGINEERING PROJECT IS
4 DIFFERENT FOR A TIRE SHREDDER THAN, FOR EXAMPLE,
5 SUPPLYING TIRE SHREDDERS AS OFTEN AS DAILY COVER,
6 WHERE THEY MAY BE EXPECTED TO SUPPLY TWO OR THREE
7 TRUCKLOADS A DAY. FOR A CIVIL ENGINEERING
8 PROJECT, THEY MAY NEED TO PROVIDE HALF A MILLION
9 TIRES IN FIVE DAYS. AND IT NEEDS TO MEET THE
10 SPECIFICATION. AND IN ORDER FOR THIS TO WORK, THEY
11 HAVE TO BE ON BOARD. SO IT'S VERY IMPORTANT THAT
12 WE WORK WITH THEM.
13 AND ,THEN, FINALLY, WE'VE BEEN WORKING
14 ON TWO DEMONSTRATION PROJECTS AT LANDFILLS. ONE
15 WAS CONSTRUCTED AT THE CHICAGO GRADE LANDFILL. AND
16 ITS PURPOSE WAS TO INVESTIGATE TIRE SHREDS AS A
17 FOUNDATION LAYER AND LANDFILL COVER SYSTEMS. AND
18 THEN WE HAD A SECOND DEMONSTRATION PROJECT AT THE
19 VASCO LANDFILL TO EVALUATE THE COMPATIBILITY
20 BETWEEN TIRE SHREDS AND LINER SYSTEMS AS A PART OF
21 A LEACH, A COLLECTION AND REMOVAL SYSTEM.
22 SO THAT'S WHERE WE'RE AT, AT THIS
23 POINT IN THE CONTRACT.
24 WE HAVE SOME VERY EXCITING THINGS
25 THAT WE'RE WORKING ON, INCLUDING USING TIRE SHREDS

1 AS EARTHQUAKE MITIGATION, USING TIRE SHREDS AS
2 LIGHTWEIGHT FILL FOR EMBANKMENTS CONSTRUCTED ON
3 SAN FRANCISCO BAY MUD. AND WE'RE GOING TO CONTINUE
4 TO PRESS FORWARD WITH THOSE APPLICATIONS TO
5 BASICALLY GET THE ENGINEERS IN CALIFORNIA HOOKED
6 ON USING TIRE SHREDS FOR CIVIL ENGINEERING
7 APPLICATIONS.

8 AND WITH THAT, I'D LIKE TO TURN THE
9 PRESENTATION BACK TO STACY PATENAUE.

10 MS. PATENAUE: AS FAR AS THE
11 AUGMENTATION, THE CONTRACT IS CURRENTLY FUNDED FOR
12 250,000. THE TOTAL AMOUNT OF THE CONTRACT CAN GO
13 TO 300,000. WE PROPOSE TO INCREASE FUNDING BY
14 50,000, AND THEN AUGMENT IT BY AN ADDITIONAL
15 50,000, WHICH IS WITHIN THE 30 PERCENT
16 AUGMENTATION ALLOWANCE. THAT WOULD MAKE THE TOTAL
17 AMOUNT OF THE CONTRACT 350,000. THE 15 0,00 WOULD
18 COME FROM THE 1998-99 ENVIRONMENTAL SERVICES
19 ALLOCATION.

20 STAFF WOULD, THEREFORE, LIKE TO
21 RECOMMEND ADOPTION OF RESOLUTION 98-3 64 TO AUGMENT
22 THE CURRENT ENGINEERING ENVIRONMENTAL SERVICES
23 CONTRACT, IWTM-C7065.

24 CHAIRMAN PENNINGTON: QUESTIONS? MR.
25 EATON?

1 MEMBER EATON: YES. THANK YOU VERY MUCH.

2 AND, MR. HUMPHREY, I DID HEAR YOU DOWN AT THE TIRE

3 CONFERENCE AND WAS QUITE ENLIGHTENED ABOUT THE

4 APPLICATIONS. I HAVE A COUPLE OF QUESTIONS FOR

5 STAFF. AND THEN I THINK I ALSO HAVE A COUPLE OF

6 QUESTIONS FOR YOU.

7 AND I THINK FIRST OFF, WITH REGARD TO

8 THE AUGMENTATION, IF WE APPROVE THE AUGMENTATION,

9 ARE WE COMMITTED TO THE PROJECTS THAT ARE LISTED

10 HERE ON PAGE 5.2?

11 MR. FUGII: THIS IS BOB FUGII. JUST TO

12 ANSWER YOUR QUESTION, I THINK WHAT WE'RE DOING IS

13 PROPOSING POTENTIAL PROJECTS THAT WOULD ENHANCE

14 THE CIVIL ENGINEERING APPLICATIONS THAT WE'RE

15 DEALING WITH CALTRANS. I DON'T THINK WE'RE LOCKED

16 INTO THE PROJECTS. WE WERE TRYING TO GIVE THE

17 BOARD AN IDEA OF THE KINDS OF PROJECTS AND JUST --

18 AND WHY WE WOULD NEED JUST THE HUNDRED THOUSAND.

19 I THINK WE ARE GOING TO CONTINUE ON

20 THE EFFORTS OF THE OTHER THINGS THAT WE'RE DOING,

21 WHICH IS REVIEWING THE LEVY PROJECT THAT'S ALSO

22 IN PLACE RIGHT NOW.

23 ALSO THE OTHER PROGRAM THAT'S IN

24 PLACE TO DO SEPTIC TANK SYSTEMS USING TIRE CHIPS,

25 WOULD ALSO BE ANOTHER AREA WHERE DANA HUMPHREY

1 COULD CONTINUE TO PROVIDE CONSULTATION TO THE
2 REMOVAL OF THE RIGS.

3 AND I DON'T THINK WE'RE LOCKED IN
4 NECESSARILY, BUT WE CERTAINLY WANTED TO GIVE YOU
5 AN IDEA OF HOW THE ADDITIONAL HUNDRED THOUSAND
6 COULD BE SPENT. BUT NOT TO SAY THAT THIS IS ALL
7 WE COULD SPEND OUR MONEY ON, NO.

8 MEMBER EATON: BECAUSE I THINK THE
9 QUESTION THAT WE HAVE FOR THE BOARD IS TO
10 DETERMINE WHAT PROJECTS KIND OF MIGHT BE HELPFUL.
11 AND I HAVE HERE AN ARTICLE -- AND I
12 GUESS BEFORE I GET TO THE ARTICLE IS BASICALLY I
13 WAS VERY IMPRESSED WITH YOUR ANALYSIS AND
14 REPRESENTATION WITH REGARD TO USING THIS KIND OF
15 APPLICATION IN RURAL COUNTIES WHERE THERE IS SNOW
16 AND FROST. AND YOU -- I THINK THE COMMENT THAT I
17 HEARD BASICALLY WAS, YOU KNOW, THE MISNOMER IS, IS
18 THAT WHEN IT'S COLD AND FREEZING OUTSIDE, THIS
19 STUFF DOESN'T WORK. AND YOU SAID HOGWASH, AND I
20 THINK YOU PROBABLY USED SOME STRONGER TERMS. AND
21 YET I DON'T SEE THAT KIND OF APPLICATION HERE IN
22 THE PROJECTS.

23 AND I'M WONDERING -- YOU KNOW, I
24 THINK THAT'S A VALID -- ESPECIALLY IN CALIFORNIA,
25 IN THE RURAL COUNTIES WHERE WE'RE HAVING A PROBLEM

1 RIGHT NOW -- WE HAVE SOMEWHAT DUPLICATION EVEN
2 THOUGH THERE'S TWO LAND STABILIZATION PROJECTS
3 HERE.

4 AND I WOULD KIND OF LIKE TO TRY AND
5 FIND OUT -- AND THIS IS PROBABLY NOT FOR YOU, MR.
6 HUMPHREY, BUT FOR STAFF. I MEAN, ARE WE GOING TO
7 GET A CHANCE TO LOOK AT SOME OF THESE PROJECTS SO
8 WE CAN MAKE SOME DECISIONS OF WHERE TO GO?
9 AND AS WELL AS ONE OTHER THING HERE -- I THINK
10 YOU MENTIONED IT ALSO. USING CRUMB RUBBER FILLING FOR
11 SOUND WALLS, WHICH CALTRANS IS -- THE LAST TIME I
12 CHECKED IS PROLIFIC IN CREATING SOUND WALLS, AND THE
13 DEMAND.

14 I WAS WONDERING YOUR THOUGHTS ON SOUND WALLS
15 HOW MUCH--

16 MR. FUGII: YESTERDAY -- I MEAN, THAT
17 ACTUALLY WAS ON TUESDAY -- THAT WAS SPECIFICALLY A
18 MEETING WE HAD WITH AN ACOUSTIC CONSULTANT IN
19 OAKLAND. AND WE LOOKED AT USING TIRE SHREDS FOR
20 SOUND ATTENUATION, AS WELL AS VIBRATION
21 ATTENUATION. AND VIBRATION ATTENUATION
22 ESSENTIALLY IS THE VIBRATION WILL GO THROUGH THE
23 GROUND AND THEN EMERGE IN THE BUILDING AS SOUND.
24 AND THAT IS AN AVENUE THAT WE'RE GOING TO TRY TO
25 CONTINUE TO PURSUE.

1 THERE ARE SOME COMMERCIALY-AVAILABLE
2 PRODUCTS THAT USE CRUMB RUBBER FOR SOUND BARRIERS.
3 THE ONE PRODUCT THAT WE SPECIFICALLY DISCUSSED AT
4 THE MEETING YESTERDAY, THE CONSULTANT POINTED OUT
5 THAT THERE WERE SOME PARTICULAR PROBLEMS WITH THAT
6 PARTICULAR PRODUCT THAT MADE IT NOT VERY
7 EFFECTIVE.

8 SO THERE'S CERTAINLY POTENTIAL
9 THERE. WE'VE HAD AN INITIAL SET OF DISCUSSIONS
10 WITH A CONSULTANT WHO SPECIALIZES IN THAT AREA,
11 AND WE'RE GOING TO CONTINUE TO TRY TO PURSUE THAT
12 AVENUE.

13 AND WHETHER THE APPLICATION BE
14 VIBRATION ATTENUATION, THROUGH VIBRATIONS THROUGH
15 THE GROUND, OR WHETHER IT BE NOISE THAT TRAVELS
16 THROUGH THE AIR, THAT REMAINS TO BE SEEN.

17 MEMBER EATON: AND THE ONE OTHER THING -- FOR
18 MY FELLOW BOARD MEMBERS AND THE PUBLIC -- MY
19 UNDERSTANDING IS -- AND SO COULD STAFF, AT LEAST BEFORE
20 I GET THERE, RESPOND TO THE QUESTION ABOUT THE PROJECTS
21 THAT ARE LISTED HERE? ARE WE LOCKED INTO THOSE,
22 OR ARE WE GOING TO HAVE AN OPPORTUNITY TO KIND OF
23 -- YOU KNOW, I THINK A LOT OF THEM ARE VERY, VERY
24 GOOD.

25 MR. CHANDLER: BOB, LET ME WORK WITH JULIE

1 ON THIS. I MEAN, OBVIOUSLY I HEAR A GREAT
2 INTEREST ON THE BOARD'S PART TO ENSURING THAT THEY
3 CONTINUE TO BE UPDATED AS WE BEGIN TO FINALIZE OUR
4 THINKING ON WHICH PROJECTS COME FORWARD.
5 I DON'T SEE ANY REASON WHY WE CAN'T
6 BRING BACK IN THE FORM OF A STATUS REPORT
7 PROGRESS AS WE IDENTIFY PROJECTS AND HAVE THE
8 BOARD IN A SETTING WHERE THEY CAN SEE WHAT
9 ALTERNATIVES WE HAVE ON OUR PLATE AND GIVE SOME
10 GUIDANCE AND DIRECTION ON WHICH PROJECTS
11 SPECIFICALLY WE OUGHT TO MOVE IN. HOPEFULLY,
12 WE'LL HAVE MORE, PERHAPS, THAN WE CAN PROVIDE
13 FUNDING FOR, AND SO --

14 JULIE NAUMAN: IT SEEMS TO
15 BE A VERY DYNAMIC AREA RIGHT NOW AND A LOT OF NEW
16 THINGS ON THE HORIZON. SO I THINK IT'S VERY
17 APPROPRIATE TO APPROACH IT IN THAT MANNER. AND AS
18 WE BEGIN TO FORMALIZE OUR IDEAS OF WHAT TO DO
19 NEXT AND HOW TO SEQUENCE SOME OF THESE PROJECTS,
20 WE CAN BRING THOSE FORWARD TO YOU SO THAT YOU CAN
21 PROVIDE ADDITIONAL GUIDANCE TO US.

22 MEMBER EATON: I WOULD APPRECIATE THAT.
23 BECAUSE I THINK THE SENSITIVITY AND THE REASON
24 FOR THE QUESTION IS REALLY THOSE WHO ARE LOOKING
25 OVER OUR SHOULDER FOR WHAT WE'RE EVENTUALLY GOING

1 TO DO WITH THESE THAT WE MAKE SURE THAT WE HAVE
2 OUR INVOLVEMENT.
3 AND I THINK ALSO -- AND THIS IS
4 MEANT AS NO SORT OF COMMENT ON YOU, MR. HUMPHREY,
5 BUT, THE MONIES THAT ARE LISTED HERE, IT'S MY
6 UNDERSTANDING, ARE NOT MONIES THAT RELATE TO THE
7 PROJECT. THEY'RE ONLY FOR FEES AND CONSULTING
8 FEES AND THOSE KINDS OF THINGS.
9 THE ACTUAL PROJECT COMES OUT OF A
10 SEPARATE PROJECT OR MONIES THAT WE MIGHT HAVE
11 TO FUND. SO IF WE WERE GOING TO DO AN EMBANKMENT,
12 IT WOULD BE IN A PARTNERSHIP WITH EITHER SOMEONE
13 ELSE, OR WE WOULD HAVE TO FUND THAT PROJECT MUCH
14 LIKE THE LEVEE.
15 IS THAT CORRECT?

16 MR. FUGII: YEAH, THAT'S MY
17 UNDERSTANDING IN THIS PROCESS. AND THE COST ESTIMATES
18 WERE BASED ON THAT.

19 MEMBER EATON: RIGHT.

20 MR. FUGII: AND, OF COURSE, IT DOESN'T
21 INCLUDE THE MATERIALS THAT WOULD BE NEEDED FOR THE
22 PROJECT OR-23

MEMBER EATON: AND I DON'T HAVE A PROBLEM
24 WITH THAT. I JUST WANT TO MAKE SURE THAT WE'RE
25 CLEAR THAT WHEN WE UNDERTAKE ONE OF THESE PROJECTS

1 THAT THIS IS NOT THE COST. THAT IS JUST ONE PART
2 OF THE COST THAT WE FACTOR INTO IT AS WE MAKE THE
3 ARGUMENT THAT IT'S CHEAPER IN THE LONG RUN. AND I
4 THINK THAT WAS A VERY CONVINCING ARGUMENT OF THOSE
5 WHO WERE TRYING TO THROW BARBS AT YOU DOWN IN
6 SANTA CLARA, AS TO WHY THEY WEREN'T CHEAPER OR NOT
7 CHEAPER.
8 BUT I AM VERY MUCH INTERESTED IN THE
9 APPLICATION AS IT RELATES TO THE RURAL COUNTIES
10 AND THE MOUNTAINOUS COUNTIES, WHICH ARE -- FIRST
11 AND FOREMOST -- ALWAYS, ALWAYS AT A LOSS FOR
12 FUNDS, FIRST AND FOREMOST. TWO --AND YOU MAY
13 HAVE HEARD THE WORD "STIP" YESTERDAY WHEN YOU WERE
14 WITH CALTRANS. THE STATE TRANSPORTATION
15 IMPROVEMENT PLAN, WHICH THEY GET IF THE FIVE YEARS --
16 THEY ARE ALWAYS LAST IN LINE, IT SEEMS LIKE TO ME, TO GET
17 THOSE PROJECTS.
18 AND THAT'S WHY I THINK THE APPLICATION FOR THOSE
19 COUNTIES ARE EXTREMELY IMPORTANT.
20 MR. HUMPHREY: IF I COULD JUST MAKE TWO
21 COMMENTS HERE. CERTAINLY, IN THE HIGHER
22 ELEVATIONS IN CALIFORNIA USING TIRE SHREDS AS AN
23 INSULATING MATERIAL WOULD BE A VERY APPROPRIATE
24 APPLICATION.
25 THE SECOND -- ACTUALLY, I HAVE THREE

1 COMMENTS. THE SECOND COMMENT IS, WE MAY NOT HAVE
2 THE ABILITY ALWAYS TO PICK THE PROJECTS TO HAVE --
3 YOU KNOW, THREE DOZEN PROJECTS THAT ARE
4 POSSIBILITIES, AND WE'RE GOING TO PICK FROM FOUR OF THEM.
5 MY EXPERIENCE WITH CIVIL ENGINEERING
6 PROJECTS IS THAT THEY'RE VERY MUCH OPPORTUNISTIC.
7 AN OPPORTUNITY PRESENTS ITSELF BECAUSE A PROJECT
8 IS BEING CONSTRUCTED IN A PARTICULAR YEAR. YOU
9 TAKE ADVANTAGE OF THE OPPORTUNITY OR YOU PASS IT
10 BY. SO THAT I THINK THAT IT'S IMPORTANT THAT THE
11 BOARD KIND OF APPRECIATE THAT IN MANY CASES CIVIL
12 ENGINEERING PROJECTS ARE OPPORTUNISTIC. WHEN THE
13 OPPORTUNITY'S THERE, YOU TAKE ADVANTAGE OF IT.
14 AND THE FINAL COMMENT THAT I'D LIKE
15 TO MAKE IS THAT THE COST ESTIMATES THAT YOU SEE ON
16 THE SHEET THERE -- ONE OF THE THINGS THAT IS
17 INCLUDED IN THAT IS THE MONITORING AND
18 INSTRUMENTATION, SO THAT WE CAN TAKE AND PROVE TO
19 THE ULTIMATE END USER -- BE IT CALTRANS OR A
20 COUNTY -- THAT, YEAH, SEE, THIS REALLY DOES WORK
21 AND HERE IS THE DATA FROM ONE OF YOUR PROJECTS SO
22 THAT YOU CAN HAVE THE CONFIDENCE TO TAKE, AFTER
23 THE END OF THIS CONTRACT -- AND YOU CAN JUST TAKE
24 THIS AND USE THIS AS PART OF YOUR ROUTINE
25 CONSTRUCTION PROCEDURES.

1 MEMBER EATON: AND I UNDERSTAND THAT, AND I
2 APPRECIATE IT. AND IT WAS NOT MEANT TO BE A
3 REFLECTION ON THE FEES, BUT REALLY JUST KIND OF
4 FOR THE OVERALL PROJECT.
5 I ALSO THINK THAT WE CAN, THE BOARD
6 MEMBERS HERE, BE YOUR PARTNER IN APPLYING THE
7 PRESSURE, AND ALSO LOOKING FOR THE OPPORTUNITIES.
8 I CAN'T TELL YOU WHERE -- THE
9 CHAIRMAN AND I, ALONG WITH MR. CHANDLER, LAST YEAR
10 WENT TO BUDGET HEARINGS, AND WE WERE SORT OF I
11 WOULD SAY KIND OF ROUGHED UP FROM TIME TO TIME ON
12 DIFFERENT KINDS OF THINGS. IF WE CAN POINT TO A
13 SITUATION WHERE WE HAVE ONE OF OUR SISTER OR
14 BROTHER AGENCIES WHO ARE BEING SOMEWHAT, SHALL WE
15 SAY, LESS THAN COOPERATIVE IN TERMS OF A PROJECT
16 THAT YOU MAY FIND AN OPPORTUNITY TO DO, WE MIGHT
17 BE ABLE TO HELP YOU WHEN THEY START HITTING US WHY
18 WE CAN'T DO THINGS. AND I THINK THAT'S THE REASON
19 WHY WE'RE LOOKING AT THOSE AND NEED THAT KIND OF
20 DIALOGUE BACK AND FORTH BETWEEN STAFF, THE
21 CONSULTANT, AND THE BOARD.

22 CHAIRMAN PENNINGTON: MR. FRAZEE.

23 MEMBER FRAZEE: YES. BOB, YOU MENTIONED
24 THE SEPTIC DRAIN FIELD APPLICATION AS A POTENTIAL
25 FOR A STUDY HERE.

1 MR. FUGII: I BELIEVE THAT'S A STUDY
2 THAT'S ALREADY BEING FUNDED.

3 MEMBER FRAZEE: WELL, OKAY. THAT'S WHERE
4 I WAS GOING. THE POINT I WAS TRYING TO MAKE THAT
5 --

6 MR. FUGII: AND I GUESS WHAT I WAS
7 REFERRING TO IS THAT WE WOULD PROVIDE CONSULTATION
8 SERVICES AT THE REQUEST OF THE MARKET'S DIVISION
9 FOR ANY TECHNICAL EXPERTISE THEY MAY NEED TO
10 IMPLEMENT THAT PARTICULAR PROGRAM.

11 MEMBER FRAZEE: AND THAT WAS A \$100,000 -
12 - WASN'T IT, THE SEPTIC DRAIN FIELD STUDY?

13 MEMBER EATON: THREE HUNDRED THOUSAND.

14 MEMBER JONES: YEAH.

15 MEMBER FRAZEE: WAS IT 300?

16 MEMBER EATON: YEAH.

17 MEMBER FRAZEE: AND WAS THAT INTENDED TO
18 BE STUDIES ALONE, OR THE ACTUAL MATCHING, OR --

19 MEMBER EATON: I THOUGHT IT WAS
20 DEMONSTRATION PROJECTS, BUT I --

21 MEMBER FRAZEE: -- DEMONSTRATION PROGRAMS

22

23 MEMBER EATON: NO, IT WAS DEMONSTRATION.

24 MEMBER FRAZEE: I WAS JUST WONDERING
25 ABOUT HOW THAT MESHES WITH THAT PROGRAM HERE,

1 WHETHER THIS -- PART OF THIS CONSULTATION WILL
2 DEAL WITH THE STUDIES, AND THE 300,000 WILL BE USED
3 ON DEMONSTRATION PROGRAMS.

4 MR. FUGII: MY UNDERSTANDING IS THAT THE
5 PROGRAM IS GOING TO BE IMPLEMENTED ON ITS OWN.
6 AND AT THE REQUEST OF MARKETS, WE WOULD MAKE DR.
7 HUMPHREY AVAILABLE FOR CONSULTATION IF NEEDED.
8 BUT AT THIS TIME, WE HAVEN'T DONE ANY COORDINATION
9 WITH THE MARKETS PEOPLE ON THAT AS OF THIS DATE.
10 SO BUT IF THE NEED SHOULD ARISE IN THE FUTURE
11 THAT THEY WOULD NEED THAT SERVICE, WE CERTAINLY
12 WOULD BE AVAILABLE TO PROVIDE IT.

13 MEMBER EATON: BUT MY UNDERSTANDING IS, IS
14 THAT PART OF THE PROBLEM WITH THE DEMONSTRATION
15 PROJECT IS THE WATER QUALITY ASPECT OR THE WATER
16 QUALITY BOARD. IS THAT CORRECT?

17 MS. GILDART: MARTHA GILDART WITH THE
18 MARKET'S DIVISION.
19 IT'S NOT SO MUCH AN EXISTING PROBLEM.
20 OTHER STATES HAVE USED THIS TECHNOLOGY AND HAVE
21 TESTED IT AND NOT FOUND ANY LEACHATE EXCEEDING
22 THEIR DRINKING WATER STANDARDS OVER TIME.
23 INITIALLY, MAYBE WITHIN THE FIRST COUPLE OF TEST
24 PERIODS, THEY FIND SOME HIGH LEVELS.
25 WHAT WE HAVE DONE IS SENT IN A

1 REQUEST, FIRST, TO CAL EPA AND THEN TO THE OFFICE
2 OF ENVIRONMENTAL TECHNOLOGY TO ASK FOR THEIR
3 PARTICIPATION IN A DEMONSTRATION. WE WANTED TO
4 MAKE SURE THAT ANY OF THE OTHER ENVIRONMENTAL
5 AGENCIES WOULD HAVE AN OPPORTUNITY TO COMMENT BOTH
6 IN HOW WE STRUCTURE THE DEMONSTRATION, ANY TESTS
7 THAT WERE RUN, ANY MONITORING DONE. WE HAVE
8 GOTTEN VERBAL APPROVAL FROM THE OFFICE OF
9 ENVIRONMENTAL TECHNOLOGY. BUT WE ARE STILL
10 AWAITING THEIR WRITTEN APPROVAL. WE HAVE MADE
11 CONTACT WITH SOME OTHER STATE AGENCIES.
12 THE WAY WE ARE PROPOSING THE PROJECT
13 RIGHT NOW IS TO TRY AND DO DEMONSTRATIONS THROUGH
14 AGENCIES SUCH AS CALTRANS AT A REST STOP OR AT A
15 STATE PARKS AND RECREATION AREA REST ROOM WHERE
16 THEY WOULD HAVE SEPTIC TANKS. WHAT WE WANTED WAS
17 A FACILITY WHERE WE FELT ASSURED THAT THERE WAS
18 CONTROL OF OWNERSHIP OF THE PROPERTY FOR SOME
19 LENGTH OF TIME.
20 SO ONCE WE START HAVING THOSE
21 MEETINGS, WE WOULD CERTAINLY AVAIL OURSELVES OF DR.
22 HUMPHREY'S SKILLS IF THE QUESTIONS ARISE. BUT AT
23 THIS POINT, WE DON'T QUITE KNOW WHAT WE WOULD BE
24 NEEDING.

25 MEMBER EATON: WELL, I WAS JUST WONDERING,

1 BECAUSE IN THIS LITTLE SCENARIO RIGHT HERE, THERE'S
2 A \$5,000 ALLOCATION FOR WATER QUALITY EFFECTS OF
3 TIRE SHREDS. AND I WOULD THINK THAT THAT KIND OF
4 GOES DIRECTLY TO THE ISSUE THAT YOU JUST MENTIONED
5 WITH REGARD TO HOW WE MONITOR THESE THINGS.

6 AND IF WE CAN UTILIZE HIS SKILLS,
7 SINCE WE ALREADY HAVE THE MONEY HERE. AND MAYBE
8 WHAT MR. FRAZEE WAS TALKING ABOUT -- UNLESS THAT'S
9 A WHOLE DIFFERENT WATER QUALITY IS SUE.

10 CHAIRMAN PENNINGTON: I THINK MR. FRAZEE

11

12 MEMBER EATON: I LOOK TO GET THE BEST FROM
13 THE BEST.

14 CHAIRMAN PENNINGTON: ALL RIGHT. MR.
15 FRAZEE?

16 MEMBER FRAZEE: WELL, JUST TO FOLLOW UP
17 ON ONGOING PROGRAMS, I THINK WE'RE ALL FAMILIAR
18 WITH THE YOLO COUNTY LIQUID ENHANCEMENT FOR GAS
19 RECOVERY, WHICH USES SHREDDED TIRES. AND I
20 WONDERED IF THERE WAS ANY TIE-IN WITH THAT
21 PROGRAM AND AN OPPORTUNITY TO WORK FURTHER WITH
22 THEM. I KNOW THEY'RE SEARCHING FOR ADDITIONAL
23 FUNDING.

24 MS. GILDART: YEAH. WE'VE ACTUALLY
25 FUNDED TWO GRANTS TO YOLO COUNTY --

1 MEMBER FRAZEE: I KNOW, YEAH.

2 MS. GILDART: -- FOR SOME OF THOSE
3 ACTIVITIES. AND UNDER THE GRANT PROPOSED BY
4 MEMBER EATON AT THE LAST ROUND WHERE SOME MONIES
5 WERE PULLED OUT OF THE PRODUCTS AND PROCESSING
6 GRANT PROPOSAL AND SET ASIDE FOR LOCAL GOVERNMENT
7 PROCUREMENT, IT MIGHT BE POSSIBLE THAT SOME SUCH
8 DEMONSTRATION COULD BE INCORPORATED IN THAT GRANT
9 PROGRAM IF IT MEETS WITH THE MEMBERS' APPROVALS.

10 MEMBER FRAZEE: OKAY.

11 CHAIRMAN PENNINGTON: THANK YOU.

12 ANY FURTHER--

13 MEMBER RHOADS: YES, I HAVE A --

14 CHAIRMAN PENNINGTON: MR. RHOADS.

15 MEMBER RHOADS: I HAVE A QUESTION AND
16 THEN A COMMENT.

17 THE QUESTION IS TO DR. HUMPHREY. THE
18 PRESENTATION YOU GAVE IN SAN JOSE WAS GREAT, AND
19 THE FEEDBACK I GOT FROM PEOPLE THAT ATTENDED IT
20 WAS VERY, VERY POSITIVE. THEY WERE VERY PLEASED,
21 AND IT EXCEEDED THEIR EXPECTATIONS.

22 I'M GOING TO ASK A NAIVE QUESTION.

23 TELL ME AGAIN WHY THE SOIL IN CALIFORNIA IS SO
24 IDEAL FOR THESE APPLICATIONS.

25 DR. HUMPHREY: THERE'S TWO

1 REASONS. THE FIRST IS THAT THE SOIL IN THE SAN
2 FRANCISCO BAY AREA IS A VERY RECENT MARINE SOIL
3 THAT'S VERY WEAK. AND THE SIGNIFICANCE OF THAT
4 IS, IN TERMS OF THE NEED FOR A LIGHTWEIGHT
5 MATERIAL, IS IF YOU WERE TO TAKE AND BUILD A
6 HIGHWAY EMBANKMENT, SAY 30 FEET HIGH, OUT OF THE
7 HEAVY SOIL, IT WOULD TEND TO SINK INTO THE
8 UNDERLYING WEAK SOIL. SO THE REASON THAT WE'VE
9 CREATED THE ENGINEERING NEED FOR THE LIGHTWEIGHT
10 MATERIAL IS BY THE SOIL IN THE SAN FRANCISCO BAY
11 AREA.

12 THE SECOND REASON WHY THE SOIL AND
13 GEOLOGIC CONDITIONS ARE RIGHT IN CALIFORNIA IS
14 THAT IN MANY OF THE MOUNTAINOUS AREAS, BOTH IN THE
15 COASTAL RANGES AND THE SIERRAS, THERE ARE PROBLEMS
16 WITH LANDSLIDES. AND IN SOME CASES, THE LANDSLIDE
17 IS TAKING OUT A PORTION OF A ROAD. A WAY TO TAKE
18 AND SOLVE THAT PARTICULAR PROBLEM IS RATHER THAN
19 BUILDING THE ROAD ACROSS THE HEAVY SOIL THAT'S AT
20 THE HEAD OF THE SLIDE, WE CAN TAKE OUT THAT HEAVY
21 SOIL AND REPLACE IT WITH THE LIGHTWEIGHT TIRE
22 SHREDS.

23 SO REALLY THERE'S TWO THINGS THAT
24 REALLY CREATES EXCITING OPPORTUNITIES HERE FOR --
25 AS FAR AS THE GEOLOGIC CONDITIONS IN CALIFORNIA.

1 MEMBER RHOADS: AND I WAS VERY PLEASED
2 THAT THE MEETING YOU HAD YESTERDAY WITH CALTRANS
3 SEEMED TO GO WELL.
4 AND A COMMENT I WOULD LIKE TO MAKE ON
5 MR. EATON'S BUDGET PROCESS. I WOULD CHANGE IT A
6 LITTLE BIT. I THINK YOU HAVE A WONDERFUL
7 OPPORTUNITY HERE WITH THE NEW ADMINISTRATION FOR
8 EXAMPLES OF WORKING TOGETHER BETWEEN DEPARTMENTS,
9 CALTRANS, THIS BOARD, CAL EPA, THE AGENCY. AND
10 YOU HAVE A MARVELOUS BLEND ON THOSE TYPE OF
11 PROJECTS OF REDUCING AN ENVIRONMENTAL PROBLEM AND
12 MEETING A NEED, AND THE LANDSLIDES, AND THE OTHER
13 ISSUES.
14 AND SO I WOULD THINK THIS WOULD BE A
15 VERY, VERY GOOD ISSUE. I COULD SEE SOME NICE
16 PRESS AND OPPORTUNITIES FOR THIS AGENCY AND
17 CALTRANS TO WORK TOGETHER. I THINK, TOO, THAT WE
18 WOULD PROBABLY HAVE TO TAKE THESE PROJECTS AS THEY
19 COME.
20 AND -- BUT IT SOUNDS LIKE CALTRANS IS
21 INTERESTED IN FINDING SOME PROJECTS. AND I COULD
22 -- I THINK ONE OF THE BENEFITS THAT WE COULD DO
23 WAS WE'D TAKE THOSE PROJECTS, RUN WITH THEM, AND
24 GET A LOT OF PUBLICITY. BECAUSE I THINK THAT
25 PUBLICITY WOULD NOT ONLY BE FOR CALIFORNIA, BUT I

1 I THINK IT WOULD BE NATIONALLY, AND I JUST THINK
2 IT'S A GREAT OPPORTUNITY. AND I LOOK FORWARD TO
3 SEEING SOME EXCITING PROJECTS THIS SPRING.

4 CHAIRMAN PENNINGTON: VERY GOOD. ANY
5 OTHER QUESTIONS, DISCUSSION? OKAY.
6 WE'LL NEED A MOTION HERE.

7 MEMBER JONES: MR. CHAIRMAN?

8 CHAIRMAN PENNINGTON: MR. JONES.

9 MEMBER JONES: I'D LIKE TO MAKE A MOTION
10 TO ADOPT RESOLUTION 98-364, THE CONSIDERATION OF
11 AUGMENTATION OF ENGINEERING AND ENVIRONMENTAL
12 SERVICES CONTRACT, NO. IWM-C7065, AND UPDATE THE
13 CONTRACT STATUS.

14 CHAIRMAN PENNINGTON: VERY GOOD.

15 MEMBER FRAZEE: I'LL SECOND.

16 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY
17 MR. JONES AND SECONDED BY MR. FRAZEE, THE ADOPTION
18 OF RESOLUTION 98-3 64.

19 IF THERE'S NO FURTHER DISCUSSION,
20 WILL THE SECRETARY CALL THE ROLL?

21 THE SECRETARY: BOARD MEMBER CHESBOROUGH,
22 ABSENT.

23 BOARD MEMBER EATON?

24 MEMBER EATON: AYE.

25 THE SECRETARY: FRAZEE?

1 MEMBER FRAZEE: AYE.

2 THE SECRETARY: JONES?

3 MEMBER JONES: AYE.

4 THE SECRETARY: RHOADS?

5 MEMBER RHOADS: AYE.

6 THE SECRETARY: CHAIRMAN PENNINGTON?

7 CHAIRMAN PENNINGTON: AYE.

8 THE MOTION CARRIES.

9 MEMBER JONES: MR. CHAIRMAN?

10 CHAIRMAN PENNINGTON: YEAH.

11 MEMBER JONES: CAN I JUST ASK DR. HUMPHREY,

12 WHEN DOES YOUR SABBATICAL END? ARE WE GOING TO

13 GET THESE DONE BEFORE YOU HAVE TO GO BACK TO

14 SCHOOL?

15 DR. HUMPHREY: MY SABBATICAL ENDS ON THE

16 1ST OF SEPTEMBER NEXT YEAR. AND I WILL STILL HAVE

17 AVAILABILITY AFTER THAT. THE FORTUNATE PART OF

18 THAT IS, IS THE MAJOR PART OF THE CONSTRUCTION

19 SEASON IS STILL DURING MY SABBATICAL. BUT I'M

20 STILL AVAILABLE AFTER IT ENDS.

21 MEMBER JONES: YOU'RE DOING GREAT, AND WE ALL

22 APPRECIATE IT.

23 CHAIRMAN PENNINGTON: OKAY. FINE. LET'S

24 TAKE ABOUT A 10-MINUTE BREAK HERE, AND WE'LL COME

25 BACK AND TAKE UP ITEM NO. 6 THEN.

1 (OFF THE RECORD.)

2 AGENDA ITEM NO. 6:

3 CHAIRMAN PENNINGTON: OKAY. LET'S GET GOING. NEXT
4 IS ITEM NO. 6, WHICH WE HAD SCHEDULED FOR ROUGHLY
5 AROUND 11 O'CLOCK, DISCUSSION OF ISSUES REGARDING THE
6 RELATIONSHIP BETWEEN CALIFORNIA INTEGRATED WASTE
7 MANAGEMENT PLANS, AND LOCAL ISSUES INCLUDING LOCAL
8 CONFORMANCE FINDINGS, FLOW CONTROL, JOINT POWER
9 AUTHORITIES, AND LOCAL ORDINANCES. JUDY FRIEDMAN
10 -- NO, IT LOOKS MORE LIKE ELLIOT BLOCK TO ME.

11 MR. BLOCK: I GUESS I'LL INTRODUCE
12 MYSELF. I'M ELLIOT BLOCK FROM THE LEGAL OFFICE
13 PRESENTING THIS ITEM.
14 THIS ITEM GREW OUT OF SOME QUESTIONS
15 THAT WERE POSED AT THE SANTA BARBARA BOARD MEETING
16 REGARDING A NUMBER OF ISSUES RELATING TO
17 CONFORMANCE FINDINGS AND FLOW CONTROL AND THE
18 LIKE. AND ON THE FIRST PAGE OF THE ITEM, I BRIEFLY
19 LIST HOW I GROUPED THOSE QUESTIONS INTO SIX SORT
20 OF MAJOR QUESTIONS THAT ARE OBVIOUSLY SUB-PARTS.
21 SOME OR ALL OF THESE QUESTIONS ARE
22 PARTICULARLY INVOLVED, AND SO PUTTING TOGETHER AN
23 AGENDA ITEM TO COVER ALL OF THOSE WAS ACTUALLY
24 QUITE A DAUNTING TASK. AND SO WHAT I'VE DONE IS,
25 I'VE PUT TOGETHER A DISCUSSION ITEM WHICH JUST

1 SORT OF TOUCHES ON THE BASIC FRAMEWORK, STATUTORY
2 FRAMEWORK AND REGULATORY FRAMEWORK, AND HOW THOSE
3 IMPACT WITH THOSE ISSUES. I'M GOING TO TRY AND
4 JUST HIT THE HIGHLIGHTS HERE, MAYBE MAKE JUST A
5 SHORT, FIVE-MINUTE PRESENTATION, AND THEN TAKE
6 QUESTIONS ON ANY PARTICULAR QUESTIONS YOU MIGHT
7 HAVE ON ANY ONE OF THOSE AREAS. WE CAN DELVE MORE
8 DEEPLY INTO SOME OF THOSE.
9 SO FIRST TO START OFF, MOST OF THE
10 QUESTIONS REVOLVE AROUND THE SITING ELEMENT. SO
11 JUST BRIEFLY, TO SET THE SITING ELEMENT AS SET OUT
12 BY STATUTE, SERVES TWO FUNCTIONS. TO ENSURE
13 SUFFICIENT TRANSFORMATION OR DISPOSAL CAPACITY FOR
14 SOLID WASTE THAT CANNOT BE REDUCED OR RECYCLED,
15 AND ALSO TO ENSURE THAT NEW OR EXPANDED FACILITIES
16 ARE CONSISTENT WITH THE SREES.
17 WHAT WE'VE ALSO HAD IN THE SITING
18 ELEMENTS, BOTH IN TERMS OF DEVELOPING THE
19 REGULATIONS FOR THEM, AND THEN AS THE SITING
20 ELEMENTS HAVE COME FORWARD, IS A REQUEST FOR LOCAL
21 JURISDICTIONS TO INCLUDE ADDITIONAL MATERIAL IN
22 THOSE SITING ELEMENTS BECAUSE THEY WANT TO USE
23 THEM AS A PLANNING TOOL. THEY ARE, IN A SENSE,
24 ISOLATED FROM OUR MINIMUM REQUIREMENTS AS TO WHAT
25 THE STATUTE OR REGULATION SETS OUT.

1 SO WHEN THOSE ARE INCLUDED IN A
2 SITING ELEMENT, OF COURSE, THEY'RE NOT
3 AUTOMATICALLY PROHIBITED. AND, IN FACT, OUR
4 REGULATIONS DO ALLOW FOR ADDITIONAL MATERIALS.
5 BUT WE WOULD ALSO LOOK AT THOSE ELEMENTS IF THEY,
6 IN FACT, CONFLICT WITH THE SITING ELEMENT THAT
7 WOULD BE IN ISSUE WE WOULD WANT TO LOOK AT.
8 AND THEN ALSO -- AND THIS ISSUE CAME
9 UP, I BELIEVE, ABOUT FOUR MONTHS AGO WHEN WE WERE
10 CONSIDERING LOS ANGELES COUNTY SITING ELEMENT --
11 TO THE EXTENT THAT ADDITIONAL PROVISIONS ARE
12 INCLUDED IN A SITING ELEMENT THE BOARD, IN
13 APPROVING A SITING ELEMENT, IS NOT APPROVING OR
14 DISAPPROVING OF THOSE ADDITIONAL PROVISIONS. AND,
15 IN FACT, BOARD APPROVAL OF THE SITING ELEMENT
16 CAN'T GRANT ANY SORT OF AUTHORITY OR. STATUS TO
17 THOSE ADDITIONAL PROVISIONS IF THEY DON'T HAVE
18 THEM FROM SOME OTHER SOURCE.
19 SO TO GO TO THE QUESTIONS THAT
20 SPECIFICALLY WERE ASKED. THE FIRST QUESTION WAS:
21 CAN LOCAL BODIES ENFORCE THE COUNTY-WIDE SITING
22 ELEMENT?
23 PURSUANT TO STATUTE, WHAT LOCAL
24 BODIES CAN DO AROUND A SITING ELEMENT IS REQUIRE
25 THAT NEW OR EXPANDED FACILITIES COMPLY WITH THE

1 APPROVAL PROCESS SET FORTH IN STATUTE. THE MAJORITY,
2 MAJORITY APPROVAL PRIMARILY IS WHAT WE'RE TALKING
3 ABOUT.

4 AND IF, IN FACT, A FACILITY ATTEMPTS TO NOT DO
5 THAT, THE STATUTE ACTUALLY DOES ALLOW THEM TO
6 REQUEST ENFORCEMENT OF THIS REQUIREMENT BY THE
7 ATTORNEY GENERAL'S OFFICE. AND THEN, TO THE
8 EXTENT THAT A NEW OR EXPANDED FACILITY COULD NOT
9 OBTAIN MAJORITY, MAJORITY APPROVAL, THAT NEW OR
10 EXPANDED FACILITY WOULD NOT BE ABLE TO MOVE
11 FORWARD.

12 HOWEVER, WHAT LOCAL BODIES CANNOT DO
13 IN THIS PROCESS IS AUTOMATICALLY PROHIBIT NEW OR
14 EXPANDED FACILITIES. THE STATUTE REQUIRES THEM TO
15 GO THROUGH A CERTAIN PROCESS. THEY CAN'T
16 AUTOMATICALLY SAY NO NEW OR EXPANDED FACILITIES
17 CAN COME FORWARD.

18 AND THERE ARE SOME SIGNIFICANT
19 RESTRICTIONS ON ANY DISAPPROVALS IN THAT MAJORITY
20 MAJORITY APPROVAL PROCESS. SPECIFICALLY, THE
21 STATUTE PROVIDES THAT A JURISDICTION CANNOT
22 DISAPPROVE A PROPOSED AMENDMENT TO A SITING
23 ELEMENT FOR A NEW OR EXPANDED FACILITY UNLESS
24 THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD OF A
25 SIGNIFICANT ADVERSE IMPACT WITHIN ITS BORDERS.

1 AND THERE ARE SOME ADDITIONAL PROVISIONS IN THE
2 STATUTE REGARDING HOW LITIGATION MIGHT ENSURE IF
3 THERE'S A DISAGREEMENT OVER THAT.

4 ANOTHER QUESTION THAT WAS RAISED WAS:

5 WHO IS AUTHORIZED TO MAKE CONFORMANCE FINDINGS FOR
6 SOLID WASTE FACILITIES PERMITS?

7 AND PURSUANT TO STATUTE, THE
8 ENFORCEMENT AGENCY DURING ITS -- AND REGULATION,
9 EXCUSE ME -- THE ENFORCEMENT AGENCY DURING ITS
10 COMPLETENESS REVIEW OF THE SOLID WASTE FACILITIES
11 APPLICATION MAKES A DETERMINATION REGARDING
12 CONFORMANCE. AND THEN THE BOARD DURING ITS
13 REVIEW OF THE PROPOSED PERMIT THAT COMES FORWARD
14 IS ALSO AUTHORIZED TO MAKE THAT FINDING.

15 A THIRD QUESTION -- AND I REALIZE
16 THAT I'M GOING THROUGH THIS VERY QUICKLY, BUT WHAT
17 I WANTED TO DO WAS SIMPLY SET SOME CONTEXT. AND
18 THEN, AS I SAID BEFORE, IF YOU HAVE QUESTIONS
19 ABOUT ANY PARTICULAR AREA, WE CAN DELVE MORE DEEPLY
20 INTO THOSE.

21 ANOTHER QUESTION THAT CAME UP WAS:

22 CAN A REGIONAL AGENCY REVISE THE CIWMB OR ONE OF
23 ITS ELEMENTS?

24 AND THE SHORT ANSWER IS, IT DEPENDS.

25 A REGIONAL AGENCY CAN REVISE THE CIWMB OR ONE OF

1 ITS ELEMENTS IF THE BOARD APPROVED REGIONAL AGENCY
2 AGREEMENT BECAUSE UNDER OUR STATUTE, THE BOARD IS
3 ACTUALLY REQUIRED TO APPROVE A REGIONAL AGENCY
4 FORMATION. THAT AGREEMENT AUTHORIZES THE REGIONAL
5 AGENCY TO MAKE THOSE REVISIONS TO THE PLANNING
6 ELEMENT. SO THEY WOULD NEED TO BE SENT SPECIFIC
7 PROVISIONS IN THE AGREEMENT ITSELF. AND SOME OF
8 THE ONES THAT WE'VE SEEN HAVE THOSE, AND SOME OF
9 THEM DON'T. IT REALLY IS A QUESTION OF -- LOCAL
10 JURISDICTIONS. DO THEY WANT TO PROVIDE THAT
11 AUTHORITY TO THE JPA, OR DO THEY WANT TO RETAIN
12 THAT AUTHORITY WITHIN THEIR LOCAL GOVERNING BODY?
13 AND IN ADDITION TO THAT, IN THE --
14 DEALING WITH THE PARTICULAR SITUATION WHERE AN
15 AMENDMENT IS COMING FORWARD WHATEVER APPROVAL
16 PROCESS IS CALLED FOR IN THAT REGIONAL AGENCY
17 AGREEMENT WOULD HAVE TO ALSO MEET THE MINIMUM
18 REQUIREMENTS OF THE STATUTE.
19 SO IN A CASE OF REGIONAL TREES, WEEDS,
20 AND FEE AMENDMENTS, SINCE UNDER THE
21 STATUTE THAT'S A DOCUMENT THAT IS SIMPLY APPROVED
22 BY THE JURISDICTION THAT'S COVERED BY THAT
23 DOCUMENT. GENERALLY SPEAKING, WHATEVER PROCESS THE
24 AGREEMENT ALLOWS IS GOING TO WORK, A MAJORITY
25 APPROVAL PROCESS OR SOMETHING ALONG THOSE LINES.

1 HOWEVER, IN THE CASE OF A SITING
2 ELEMENT OR A SUMMARY PLAN, WHICH STATUTE REQUIRES
3 TO HAVE MAJORITY MAJORITY APPROVAL, THERE WOULD
4 NEED TO BE SOME SORT OF FORMULA OR ALLOWANCE IN
5 THE APPROVAL PROCESS SO THAT WHATEVER APPROVAL BY
6 THE REGIONAL AGENCY ALSO CONSTITUTED A MAJORITY,
7 MAJORITY APPROVAL MET THE MINIMUM REQUIREMENTS OF
8 THE STATUTE. AND SO THAT KIND OF FLESHED THAT OUT
9 A LITTLE BIT.

10 AND THE AREA WHERE YOU MIGHT HAVE A
11 PROBLEM HERE, FOR INSTANCE, IS IF THE REGIONAL
12 AGENCY ALLOWED SIMPLY FOR A MAJORITY VOTE AMONG
13 REPRESENTATIVES OF ITS MEMBERSHIP. AND THAT WOULD
14 BE HOW THE AMENDMENT WOULD BE APPROVED. WELL,
15 THAT'S NOT SUFFICIENT, BECAUSE THEORETICALLY, YOU
16 COULD HAVE A MAJORITY OF REPRESENTATIVES ON THE
17 REGIONAL AGENCY APPROVING IT. BUT THAT WOULDN'T
18 NECESSARILY REPRESENT A MAJORITY OF THE CITIES
19 WITH A MAJORITY OF THE POPULATION, WHICH IS THE
20 MINIMUM REQUIREMENT IN STATUTE. SO IT GETS A
21 LITTLE BIT COMPLICATED DEPENDING ON HOW THEY HAVE
22 SET THAT OUT.

23 MOVING ON TO AN EVEN MORE INTERESTING
24 ISSUE, ONE OF THE OTHER QUESTIONS THAT CAME UP HAS
25 TO DO WITH FLOW CONTROL. AND PART OF THAT

1 DISCUSSION WAS WHETHER OR NOT INTER-COUNTY FLOW
2 CONTROL, AS OPPOSED TO INTER-STATE FLOW CONTROL,
3 WOULD VIOLATE THE COMMERCE CLAUSE.
4 I WILL MAKE A QUICK DISCLAIMER HERE
5 THAT, OBVIOUSLY, THIS IS A VERY INVOLVED IS SUE,
6 FLOW CONTROL, AND THERE'S LOTS OF OPINIONS AND
7 LOTS OF DIFFERENT DIRECTIONS ON WHAT IS OR ISN'T
8 FLOW CONTROL, AND WHAT IS OR ISN'T VALID.
9 BUT SORT OF THE BASIC PARAMETERS IN
10 THE CASES THAT HAVE BEEN DECIDED RECENTLY ARE THAT
11 INTER-COUNTY FLOW CONTROL IS NOT AUTOMATICALLY
12 INVALID. THE COURTS HAVE LOOKED AT THE INTER-
13 STATE EFFECTS OF THAT FLOW CONTROL.
14 BUT AGAIN, IF -- WHATEVER RESTRICTION
15 WE'RE TALKING ABOUT AFFECTED INTER-STATE FLOW
16 CONTROL, EVEN IF IT WAS PHRASED AS AN INTER-COUNTY
17 RESTRICTION, OR IF IT SOMEHOW HAD THE EFFECT OF
18 RESTRICTING INTER-STATE ACCESS TO MARKETS -- AND
19 THAT'S THE CARBONE CASE PRIMARILY THAT WE'RE
20 DEALING WITH THERE - - THAT WOULD KICK IN THE FLOW
21 CONTROL RESTRICTIONS. AND, OBVIOUSLY, DEPENDING
22 ON THE PARTICULAR CASE, THERE WOULD BE A
23 DETERMINATION WHETHER IT WAS INVALID.
24 ALONG THOSE SAME LINES, ANOTHER
25 QUESTION THAT CAME UP WAS, CAN RESTRICTIONS ON THE

1 FLOW OF WASTE BE PLACED IN THE COUNTY-WIDE SITING
2 ELEMENT?

3 AND SO, AGAIN, THIS ACTUALLY TAKES US
4 BACK TO THE DISCUSSION AT THE VERY BEGINNING OF MY
5 PRESENTATION. RESTRICTIONS ON FLOW CONTROL ARE
6 NOT, OBVIOUSLY, PART OF THE MINIMUM REQUIREMENTS
7 OF WHAT GOES IN A SITING ELEMENT IN OUR STATUTES
8 OR REGULATIONS.

9 HOWEVER, IF THOSE KIND OF PROVISIONS
10 WERE PLACED IN A SITING ELEMENT OUR REGULATIONS DO
11 ALLOW FOR LOCAL JURISDICTIONS TO INCLUDE
12 ADDITIONAL ELEMENTS. SO THEY WOULDN'T BE
13 AUTOMATICALLY PROHIBITED FROM INCLUDING OTHER
14 ITEMS. BUT IF THEY CONFLICTED WITH SOME OF THE
15 PROVISIONS IN OUR STATUTE OR REGULATIONS, THEN IT
16 COULD BE A BASIS FOR DISAPPROVAL, AND THAT WOULD
17 JUST -- IT WOULD BE BASICALLY A CASE-BY-CASE
18 DETERMINATION AS TO HOW THAT PLAYED OUT.

19 SO, AGAIN, GOING DOWN THAT SAME PATH
20 OF FLOW CONTROL ISSUES, ANOTHER ISSUE ALONG FLOW
21 CONTROL THAT CAME UP WAS WHETHER OR NOT FLOW
22 CONTROL CAN BE ENFORCED THROUGH THE SITING
23 ELEMENT? AND SO, AGAIN, FLOW CONTROL IS NOT GOING
24 TO BE A REQUIRED ELEMENT OF THE SITING ELEMENT.
25 AND SO ANY TYPE OF A PROVISION ALONG

1 THOSE LINES COULD NOT BE ENFORCED SIMPLY BECAUSE
2 IT WAS IN A SITING ELEMENT THAT THE BOARD
3 APPROVED. THERE WOULD HAVE TO BE A SEPARATE
4 AUTHORITY FOR IMPLEMENTING THOSE RESTRICTIONS. THE
5 BOARD IS NOT IN THE POSITION, AND THE PUBLIC RESOURCES
6 CODE,
7 DOESN'T PROVIDE AUTHORITY FOR FLOW CONTROL,
8 BASICALLY.
9 AND AS I'VE PUT IN A LITTLE BIT MORE
10 DETAIL HERE, I MEAN, THE MECHANISM WHERE THAT
11 MIGHT OCCUR IS IF A SITING ELEMENT WAS PREPARED
12 WITH SOME PROVISIONS LIKE THAT, AND THEN IT WAS
13 INCORPORATED INTO A SEPARATE COUNTY ORDINANCE OR
14 SOMEWHERE ALONG THOSE LINES.
15 AND, AGAIN, THE WHOLE DISCUSSION
16 REGARDING ENFORCING A FLOW CONTROL PROVISION
17 ALWAYS COMES BACK TO THE INITIAL QUESTION WHICH
18 IS, IS IT SOMETHING THAT'S VALID IN THE FIRST
19 PLACE? AND THAT WOULD OBVIOUSLY BE THE FIRST
20 HURDLE THAT WOULD HAVE TO BE PASSED.
21 AND THEN I THINK THE FINAL QUESTION
22 THAT WAS ASKED WAS WHETHER PUBLIC ENTITIES COULD
23 USE THE CIWMB OR ONE OF ITS ELEMENTS TO RESTRICT
24 PRIVATE SOLID WASTE ENTERPRISES?
25 AND THE SHORT ANSWER IS NO. I MEAN,

1 THERE IS CERTAINLY NO AUTHORITY IN THIS STATUTE
2 THAT WOULD ALLOW RESTRICTION OF PRIVATE ENTITIES
3 SIMPLY BECAUSE THEY ARE PRIVATE.
4 THERE IS A PROVISION IN THE STATUTE
5 FOR SOLID WASTE HAULING, NOT OPERATIONS, THAT
6 WOULD POTENTIALLY ALLOW A LOCAL GOVERNING BODY TO
7 ASSUME ALL SOLID WASTE SERVICES IF THEY WANTED TO.
8 BUT THAT'S NOT REALLY THE SITUATION WE WERE
9 TALKING ABOUT AT THE SANTA BARBARA MEETING. IN
10 TERMS OF OPERATORS OF SOLID WASTE FACILITIES OR
11 SOLID WASTE OPERATIONS, THERE CERTAINLY IS NO
12 AUTHORITY IN THE ACT TO DISCRIMINATE AGAINST
13 PRIVATE OPERATORS.
14 AND WITH THAT, THAT IS A VERY BRIEF
15 OVERVIEW. AND IF YOU HAVE ANY QUESTIONS, I'D BE
16 GLAD TO ANSWER THEM.

17 CHAIRMAN PENNINGTON: QUESTIONS? OKAY. FINE.
18 WE HAVE SOME PUBLIC PEOPLE WHO WISH TO ADDRESS THIS
19 ISSUE. FIRST IS MARK LEARY.

20 MR. LEARY: ELLIOT, I NEED HELP WITH THE COMPUTER,
21 PAL.

22 GOOD MORNING MEMBERS OF THE
23 BOARD. MY NAME IS MARK LEARY. I WANT TO INTRODUCE
24 MYSELF WITH TWO HATS.
25 ONE HAT, REAL BRIEFLY, IS A MEMBER OF

1 THE NORTHERN CALIFORNIA CHAPTER OF THE BOARD OF
2 DIRECTORS OF THE JUVENILE DIABETES FOUNDATION. I
3 WANT TO ECHO STEVE'S SENTIMENTS EXPRESSED EARLIER
4 ABOUT THE BOARD'S PARTICIPATION IN THE JUVENILE
5 DIABETES WALK FOR THE CURE THAT OCCURRED LATE
6 SEPTEMBER. AS A BOARD MEMBER OF THAT ORGANIZATION,
7 I ENTHUSIASTICALLY AND WHOLEHEARTEDLY SUPPORT THE
8 BOARD'S PARTICIPATION AND THE OUTSTANDING AMOUNT
9 OF MONEY THE BOARD WALKERS RAISED IN THAT
10 ACTIVITY.

11 BUT MY SECOND HAT IS A MANAGER OF
12 REGULATORY AFFAIRS FOR BROWNING-FERRIS INDUSTRIES.
13 THIS MORNING I'D LIKE TO BRING TO THE
14 BOARD'S ATTENTION -- FIRST, NOT TO TAKE ISSUE WITH
15 THE ANALYSIS THAT ELLIOT HAS PROVIDED IN REGARDS
16 TO QUESTIONS RAISED IN SANTA BARBARA, BUT AS
17 ELLIOT STRUGGLED, AND I CONCUR WITH THAT STRUGGLE,
18 THAT IT'S TOUGH TO DO THAT ANALYSIS IN A VOID AND
19 IN A VACUUM.

20 AND WHAT I'D LIKE TO DO IS OFFER THE
21 BOARD SOME EXAMPLES OF WHERE THIS ISSUE HAS COME
22 UP AND FOCUS THE BOARD ON THE SPECIFIC EXAMPLES.
23 AND THEN POSSIBLY ASK YOU TO EXTRACT FROM THOSE
24 EXAMPLES SOME CONCERNS THE BOARD MAY HAVE IF THESE
25 EXAMPLES WERE TO OCCUR ON A STATEWIDE BASIS, AND

1 IN TERMS TO BE -- POTENTIALLY BE OF CONCERN TO
2 THE BOARD.
3 THE GENESIS OF THIS IS SUE COMES, AS
4 ELLIOT ALSO SAID, FROM THE JUNE 24TH MEETING IN
5 MARIN COUNTY, WHERE WE MET IN A BUILDING THAT WAS
6 ARCHITECTURALLY ALMOST AS NICE OF THIS BUILDING,
7 AS YOU RECALL, AND THE SETTING.
8 BUT THE L.A. COUNTY SITING ELEMENT
9 AND SUMMARY PLAN WAS CONSIDERED BY THE BOARD, AND
10 THE OPPONENTS TO THE ELSMIRE COUNTY FACILITY
11 RAISED THE ISSUE THAT BECAUSE THE ELSMIRE FACILITY
12 WAS IN THEIR PLAN THAT THE BOARD SHOULD DISAPPROVE
13 THEIR PLAN, BECAUSE THE PLAN SEEMED TO HAVE A BIAS
14 TOWARDS IN-COUNTY DISPOSAL AND A BIAS TOWARDS A
15 FACILITY THAT SHOULDN'T BE APPROVED OR SHOULDN'T
16 BE INCLUDED IN THE PLAN.
17 AND ELLIOT MADE, I THOUGHT, A VERY
18 ELOQUENT DISCUSSION OF THE PLAN AND THE
19 ENFORCEMENT OF THE PLAN, BUT HE EMPHASIZED THAT
20 THE COUNTY PLAN AND THE SITING ELEMENTS WERE NOT
21 ENFORCEMENT DOCUMENTS, AND NOT MEANT TO DIRECT
22 WASTE IN ANY MANNER.
23 I'D LIKE TO OFFER FOR THE BOARD'S
24 CONSIDERATION A CONTRASTING SITUATION THAT'S
25 OCCURRING IN ALAMEDA COUNTY, WHERE BFI OWNS AND

1 OPERATES THE VASCO ROAD LANDFILL.
2 IN ALAMEDA COUNTY -- AND I HOPE I
3 CHARACTERIZE THIS RIGHT -- THERE IS A LEVEL OF
4 CONTROL EXERTED BY THE ALAMEDA COUNTY WASTE
5 MANAGEMENT AUTHORITY THAT WE THINK MAYBE GOES
6 ABOVE AND BEYOND THE CALL OF DUTY, AND ABOVE AND
7 BEYOND WHAT THE CRAFTERS OF AB 939 AND AB 1220
8 ENVISIONED WHEN THEY DEVELOPED THOSE LANDMARK
9 PIECES OF LEGISLATION.
10 THE LEVEL OF CONTROL ALMOST CREATES A
11 NEW ENTITLEMENT, OR A SECOND TIER OF A PERMITTING
12 PROCESS BY WAY OF SEEING A DESIGNATION OF
13 CONFORMANCE EVERY TIME A FACILITY NEEDS TO BE
14 MODIFIED IN ANY WAY, SHAPE, OR FORM. OR IF A
15 FACILITY WANTS TO ACCEPT FOR DISPOSAL WASTE
16 MATERIAL OR WASTE MATERIAL FROM A WASTE SHED
17 THAT'S NOT CURRENTLY IDENTIFIED IN THE PLAN.
18 LET ME PROVIDE SOME FAIRLY SPECIFIC
19 EXAMPLES. AND IF I CAN WORK THIS DOCUMENT VIEWER
20 APPROPRIATELY, I MIGHT BE ABLE TO BE BETTER ABOUT
21 PROVIDING THESE EXAMPLES.
22 ELLIOT'S IS SUE ABOUT WHO MAKES THE
23 CONFORMANCE FINDINGS I THINK WAS VERY APPROPRIATE.
24 THIS IS AN EXCERPT FROM THE ALAMEDA COUNTY WASTE
25 MANAGEMENT PLAN. BUT WHAT IT PROVIDES

1 SPECIFICALLY IS THAT UNDER THE JOINT POWERS
2 AGREEMENT THE AUTHORITY HAS THE POWER TO PREPARE,
3 ADOPT, AMEND, ADMINISTER, ENFORCE AND IMPLEMENT
4 THE ALAMEDA COUNTY INTEGRATED WASTE MANAGEMENT
5 PLAN.
6 BFI STRUGGLES WITH THE WORDS
7 “ENFORCE” AND “IMPLEMENT.” THE PLAN AS PROVIDED
8 IN 5,000 IS MEANT, AS ELLIOT HAS PROVIDED, AS A
9 PLANNING DOCUMENT AND THE LEVEL OF JURISDICTION IS
10 INAPPROPRIATE.
11 WE THINK BECAUSE THE AUTHORITY HAS
12 DESIGNATED THEMSELVES AS THE CONFORMANCE FINDER OR
13 CONFORMANCE DETERMINER, WE THINK THAT THAT
14 SOMEWHAT CONFLICTS WITH ELLIOT’S SPECIFIC LANGUAGE
15 ON THE BOTTOM OF HIS PAGE 6.5:
16 “IN ANSWER TO THE QUESTIONS POSED
17 ABOVE, CONFORMANCE FINDINGS ARE MADE BY
18 THE ENFORCEMENT AGENCY OR THE BOARD IN
19 THE SOLID WASTE FACILITY PERMIT PROCESS.”
20 WE THINK THAT THERE’S A CONFLICT THERE
21 THAT WE THINK THE BOARD NEEDS TO BE CONCERNED
22 ABOUT.
23 WHAT’S REQUIRED IN A CONFORMANCE
24 FINDING? AS AN EXAMPLE, AGAIN I TURN TO THE
25 ALAMEDA COUNTY -- AN ORDINANCE BEING PROPOSED BY

1 THE WASTE AUTHORITY, IN ORDINANCE 98.1, THAT WILL
2 BE UP FOR A VOTE LATER THIS MONTH THAT HAS AS ITS
3 CORE SECTION 5 WHICH READS -- AND I APOLOGIZE
4 FOR GOING INTO A LENGTHY READING HERE, BUT I THINK
5 IT'S IMPORTANT THAT THE BOARD UNDERSTAND THE LEVEL
6 OF SCRUTINY AND THE LEVEL OF REGULATION THE
7 AUTHORITY IS EXERTING:
8 "ANY SOLID WASTE ENTERPRISE WHICH
9 PROPOSES TO UNDERTAKE ANY NEW ACTIVITY IN
10 ALAMEDA COUNTY TO MAKE ANY CHANGE OR
11 MODIFICATION IN ITS ACTIVITIES LOCATED IN
12 ALAMEDA COUNTY, WHICH NEW ACTIVITY CHANGE
13 OR MODIFICATION LISTED BELOW MUST SEEK A
14 DETERMINATION OF CONFORMANCE."
15 AGAIN, OUR ISSUE IS A MATTER OF
16 DEGREE. NEW ACTIVITIES THAT REQUIRE THIS
17 DETERMINATION OF CONFORMANCE ARE QUITE EXHAUSTIVE:
18 "ANY SIGNIFICANT NEW ACTIVITY, CHANGE
19 OR MODIFICATION NOT CURRENT DESCRIBE IN
20 THE PLAN, BUT NOT LIMITED TO NEW OR
21 EXPANDED LANDFILLS, TRANSFER STATION,
22 MRFS OR COMPOSTING FACILITIES THAT
23 PROCESS OR DISPOSE MORE THAN 10 TONS PER
24 DAY ARE REQUIRED TO SEEK THIS
25 DETERMINATION OF CONFORMANCE."

1 FURTHER, IT GOES ON IN ROMAN NUMERAL
2 SIX, VI:
3 “ANY CHANGE IN THE WASTE SHED AS
4 IDENTIFIED AND AUTHORIZED IN THE PLAN FOR
5 WHICH A SOLID WASTE ENTERPRISE RECEIVES
6 WASTE FOR DEPOSIT IN A LANDFILL LOCATED
7 IN ALAMEDA COUNTY REQUIRES A
8 DETERMINATION OF CONFORMANCE. THIS
9 REQUIREMENT APPLIES REGARDLESS OF WHETHER
10 THE SOURCE OF THE WASTE IS WITH OR
11 WITHOUT ALAMEDA COUNTY.”
12 I’D LIKE, AGAIN, TO DRAW A CONTRAST
13 TO ELLIOT’S ANALYSIS, AGAIN, ON PAGE 6.5 WHERE HE
14 WRITES -- WELL, ACTUALLY JUST SUMMARIZES THE
15 STATUTE THAT:
16 “AFTER THE GAP-PERIOD CONFORMANCE
17 FINDING INFORMATION SIMPLY INCLUDES A
18 STATEMENT THAT THE FACILITY IDENTIFIED IN
19 EITHER THE COUNTY SITING ELEMENT OR THE
20 NON-DISPOSAL FACILITY ELEMENT, OR SRRE,
21 IN WHICH IT’S LOCATED.”
22 THAT’S SIMPLY WHAT A CONFORMANCE
23 FINDING IS MEANT TO DO, SIMPLY TO STATE THAT IT’S
24 INCLUDED.
25 YET UNDER THE AUTHORITY, WE ARE

1 REQUIRED TO SEEK THESE CONFORMANCE FINDING
2 DETERMINATIONS IN A VAST ARRAY OF ACTIVITIES THAT
3 OUR FACILITY MAY WANT TO UNDERGO. ACTIVITIES THAT
4 MAY, IN FACT, ALREADY BE INCLUDED IN OUR SOLID
5 WASTE FACILITY PLAN. BUT IF THEY'RE NOT IN THE
6 COUNTY'S INTEGRATED WASTE MANAGEMENT PLAN, WE HAVE
7 TO GO THROUGH THIS SOMEWHAT BURDENSOME CONFORMANCE
8 FINDING DETERMINATION.
9 AND ELLIOT TOUCHED ON THE VERY
10 COMPLICATED SUBJECT OF FLOW CONTROL. PROVISIONS
11 IN THE ORDINANCE AND IN THE PLAN INDICATE TO US
12 THAT FLOW CONTROL IS OF ISSUE THERE. AGAIN,
13 REFERRING BACK TO SECTION 5, THE ENFORCEMENT
14 SECTION IN THE PLAN -- I WON'T READ IT AGAIN, BUT
15 AGAIN IT GOES BACK TO ROMAN NUMERAL FIVE -- ANY
16 CHANGE IN THE WASTE SHED REQUIRES THIS
17 DETERMINATION OF CONFORMANCE. WE HAVE TO GO
18 THROUGH A FAIRLY LENGTHY PROCESS TO SEEK ANY
19 CHANGE IN OUR WASTE SHED.
20 IF WE TRY TO RESPOND TO THE
21 MARKETPLACE, IF WITHIN THE COUNTY OF SAN JOAQUIN
22 WE WANT TO SEEK A NEW WASTE MATERIAL, WE ARE
23 SEEKING TO BID ON A PROJECT AND WANT TO TAKE THAT
24 MATERIAL FROM SAN JOAQUIN WE ARE UNABLE TO
25 BASICALLY, OR WE ARE PROHIBITED FROM RESPONDING TO

1 THAT MARKETPLACE OPPORTUNITY IN A TIMELY FASHION
2 BECAUSE WE HAVE TO GO THROUGH THIS CONFORMANCE
3 FINDING DETERMINATION. AND, POTENTIALLY, A PLAN
4 AMENDMENT IF SAN JOAQUIN IS NOT ALREADY
5 IDENTIFIED IN THE INTEGRATED WASTE MANAGEMENT PLAN
6 OF THE COUNTIES.

7 RELATING STILL TO THE FLOW CONTROL
8 ISSUE, THIS IS AGAIN FROM THE INTEGRATED WASTE
9 MANAGEMENT PLAN OF ALAMEDA COUNTY, LAST SENTENCE:
10 "IN ADDITION, THE FOLLOWING TYPES OF
11 FACILITIES MUST BE SPECIFICALLY
12 DESIGNATED IN THE COUNTY-WIDE ELEMENT
13 FACILITIES MAP AND DESCRIBED IN THE PLAN
14 TEXT. THIS REQUIRES AN AMENDMENT TO THE
15 COUNTY-WIDE ELEMENT."

16 AND UNLESS THE FACILITIES ARE LANDFILLS,
17 LANDFILL EXPANSIONS, OR RECLASSIFICATIONS,
18 TRANSFER STATIONS, ALTERATION OF THE
19 WASTE SHED FOR ANY
20 LANDFILL OR TRANSFER STATION."

21 AGAIN, THESE -- WHAT WE VIEW ARE FLOW
22 CONTROL PROVISIONS, ARE BUILT RIGHT INTO THE
23 COUNTY'S INTEGRATED WASTE MANAGEMENT PLAN AND
24 ALSO INTO THE PROPOSED ORDINANCE THAT AMENDS THAT
25 PLAN.

1 IN CONCLUSION, I'D LIKE TO OFFER THAT
2 THE BOARD CONSIDER THE SPECIFICS OF THE ALAMEDA
3 COUNTY INTEGRATED WASTE MANAGEMENT PLAN AND THE
4 BURDEN ON COMMERCE, THE SEPARATE ENTITLEMENT
5 PROGRAM THAT THE AUTHORITY HAS CREATED FOR ITSELF
6 THAT CREATE A SECOND LEVEL OF REGULATIONS AN
7 ADDITIONAL PERMIT PROCESS THAT WE HAVE TO GO
8 THROUGH TO CONTINUE TO PARTICIPATE AND RESPOND TO
9 THE MARKETPLACE IN THE EAST BAY AREA.
10 WE THINK THAT ADDITIONAL BURDEN WAS
11 UNANTICIPATED BY THE CRAFTERS OF 939 AND IS, IN
12 FACT, IN CONFLICT WITH THE PROVISIONS OF 1220
13 WHICH SEEK TO ELIMINATE DUPLICATION IN
14 THE PROVISIONS OF ENFORCEMENT FOR SOLID WASTE
15 FACILITIES.
16 WITH THAT, I CONCLUDE MY COMMENTS. I
17 THINK THERE ARE A NUMBER OF ALTERNATIVES FOR THE
18 BOARD TO CONSIDER AT THIS POINT. I WOULD JUST
19 LIKE TO SEE THE DISCUSSION CONTINUE. I KNOW THIS
20 IS JUST A DISCUSSION ITEM. I'D LIKE TO SEE THE
21 DISCUSSION CONTINUE.
22 AND POSSIBLY, AMONG OTHER THINGS, THE
23 BOARD MAY CONSIDER THAT BOARD STAFF COULD REVIEW,
24 WITH A LITTLE GREATER SCRUTINY, MAYBE SPECIFIC
25 PLANS INCLUDING THE ALAMEDA COUNTY INTEGRATED

1 WASTE MANAGEMENT PLAN AND THE ALAMEDA COUNTY
2 CONFORMANCE FINDING DETERMINATION PROCESS TO
3 DETERMINE ITS CONSISTENCY WITH AB 939, AND ANALYZE
4 ITS POTENTIAL HINDRANCES TO THE SOLID WASTE
5 INDUSTRY AND THE MEETING OF THE DIVERSION MANDATES
6 FOR 939.

7 THANK YOU VERY MUCH.

8 CHAIRMAN PENNINGTON: ANY QUESTIONS? MR.
9 FRAZEE.

10 MEMBER FRAZEE: YES. YOU CAN COMMENT ON
11 THIS, OR ELLIOT, EITHER OR BOTH. BUT A PARALLEL
12 CASE TO THIS IS A SITUATION THAT OCCURRED IN
13 ORANGE COUNTY FOLLOWING THEIR BANKRUPTCY, FINDING
14 THE ONE SOURCE OF REVENUE THEY HAD WAS THE
15 UTILIZATION OF EXCESS CAPACITY AT THEIR LANDFILLS,
16 AND SO THEY SOUGHT OUT-OF-COUNTY WASTE TO UTILIZE
17 SOME OF THAT CAPACITY. THEY WERE HINDERED IN
18 DOING THAT BY, I BELIEVE, BY LOCAL ORDINANCE THAT
19 PROHIBITED OUT-OF-COUNTY WASTE FROM COMING IN.
20 THE SOLUTION FOR THAT, BECAUSE OF
21 THEIR DIRE CIRCUMSTANCE, WAS EMERGENCY
22 LEGISLATION. I BELIEVE THE KEY THRUST OF THAT
23 LEGISLATION WAS THE WAIVING OF A NEW ENVIRONMENTAL
24 DOCUMENT FOR TRANSPORTATION OF OUT-OF-COUNTY WASTE
25 INTO ORANGE COUNTY. BUT I BELIEVE THAT IT ALSO HAD

1 TO DO SOMETHING WITH REPEALING THE LOCAL
2 PROVISION. I'M NOT SURE WHAT HAPPENED THERE, BUT
3 THAT WOULD -- IF THAT'S WHAT OCCURRED, WOULD TEND
4 TO REINFORCE ALAMEDA COUNTY'S POSITION.
5 ARE EITHER ONE OF YOU FAMILIAR WITH
6 WHAT OCCURRED THERE?

7 MR. CHANDLER: OF COURSE, WE ALL RECALL THE
8 SITUATION. I CAN'T RECALL SPECIFICALLY IF THE
9 LEGISLATION DID, IN FACT, SERVE THAT SECOND DUAL
10 PURPOSE OF WAIVING THE ORDINANCE YOU REFERRED TO.
11 BUT PERHAPS--

12 MEMBER FRAZEE: BUT BY ANY TOKEN, IT DID
13 REQUIRE WAIVER OF A NEED FOR AN ADDITIONAL DIR.

14 MR. CHANDLER: THAT I DO RECALL.

15 MEMBER FRAZEE: THAT WAS THE THRUST OF
16 THE LEGISLATION. BUT WHETHER IT DID ANYTHING TO
17 REPEAL A LOCAL ORDINANCE OR WHETHER THE BOARD OF
18 SUPERVISORS DID THAT THEMSELVES -- BUT I THINK
19 THAT CASE IS WORTH LOOKING AT IN CONNECTION WITH
20 THIS ONE, BECAUSE IT COULD HAVE SOME BEARING ON
21 THIS SITUATION.

22 MR. CHANDLER: BUT IS YOUR POINT THAT BY
23 VIRTUE OF THE FACT THAT THEY HAD PRIOR TO THAT
24 SITUATION AN ORDINANCE IN PLACE --

25 MEMBER FRAZEE: IN PLACE, YES, THAT

1 PROHIBITED OUT-OF-COUNTY WASTE FROM BEING
2 TRANSPORTED IN AND ACCEPTED IN ORANGE COUNTY
3 LANDFILL.
4 NOW, WHETHER THAT WAS AN OPERATIONAL
5 ORDINANCE OR A FUNCTION OF THE COUNTY-WIDE SITING
6 ELEMENT, I THINK BEARS ON THE QUESTION. BUT IF IT
7 WERE A FUNCTION OF THE ORDINANCE ALONE, THEN I
8 WOULD THINK THAT ALL ALAMEDA COUNTY WOULD HAVE TO
9 DO IN THIS CASE WAS DO THE ORDINANCE RATHER THAN
10 INCLUDE IT IN THE COUNTY-WIDE SITING ELEMENT, AND
11 THEY WOULD STILL BE ON SOLID GROUND.

12 MR. LEARY: WELL, I THINK ELLIOT'S POINT
13 WAS A GOOD ONE ORIGINALLY THAT THERE IS NOT A
14 SPECIFIC PROHIBITION ON THE LOW OF INTER-COUNTY
15 WASTE. BUT I THINK THAT MEANS MORE THAT THE
16 COURTS HAVE NOT REVIEWED THAT SITUATION LIKE THEY
17 HAVE IN REVIEWING THE INTRA- STATE FLOW OF WASTE --

18 MEMBER FRAZEE: YEAH. OH, YES.

19 MR. LEARY: -- AND ANALYZED THE
20 IMPLICATIONS TO THE COMMERCE CLAUSE. BECAUSE THE
21 COURTS HAVEN'T GOTTEN TO THAT KIND OF DETAIL.
22 THERE'S JUST NOT A FINDING THAT IT CONSTITUTES
23 FLOW CONTROL, OR IT DOESN'T CONSTITUTE FLOW
24 CONTROL.
25 I THINK POSSIBLY IN THE ORANGE COUNTY

1 SITUATION -- I DON'T KNOW THAT ONE IN DETAIL --
2 BUT AT LEAST IN THE ALAMEDA COUNTY SITUATION THAT
3 WE ARE FAMILIAR WITH WE WOULD, OR IT'S OUR
4 BELIEF THAT SOME OF THESE PROVISIONS DO, IN FACT,
5 CONSTITUTE FLOW CONTROL. AND IF THE COURT WERE TO
6 REVIEW THESE, I THINK THEY WOULD BE FOUND TO BE
7 INVALID, OR AT LEAST THERE'S A VULNERABILITY
8 THERE.

9 IN FACT, I THINK I PROVIDED AS PART
10 OF YOUR PACKAGE EARLIER IN THE WEEK THE ANALYSIS
11 PROVIDED BY THE AUTHORITY'S OWN EXTERNAL COUNSEL,
12 WHICH IDENTIFIED THE AUTHORITY'S VULNERABILITY ON
13 BOTH THE OUT-OF-STATE COUNTY MITIGATION FEES, AS
14 WELL AS THEIR PROVISIONS OF THEIR DESIGNATION OF
15 WASTE SHEDS AND EXERTING THIS LEVEL OF REGULATION
16 OVER THE WASTE SHEDS THAT LANDFILLS CAN ACCEPT
17 WASTE FROM.

18 SO IN A NUTSHELL, THE JURY'S OUT ON
19 THAT ISSUE, BUT-20

MEMBER FRAZEE: MY SYMPATHIES LIE WITH
21 YOUR CAUSE, BUT I STILL HAVE TO PLAY DEVIL'S
22 ADVOCATE, IF YOU WILL --

23 MR. LEARY: I CAN APPRECIATE THAT.

24 MEMBER FRAZEE: -- ON THIS ISSUE.

25 BECAUSE I THINK YOU HAVE TO LOOK AT THE SITUATION

1 OF, SAY A COUNTY HAS ITS BARE MINIMUM 15-YEAR
2 CAPACITY AS REQUIRED, AND THEN BRINGING OUT-OF-
3 COUNTY WASTE IN WOULD TEND TO DISTORT THAT, WOULD
4 REDUCE THAT CAPACITY.

5 SO DOES THE COUNTY HAVE THE ABILITY
6 TO RESTRICT THAT OUT-OF-COUNTY WASTE ON THE
7 GROUNDS THAT IT WOULD HINDER THEIR ABILITY TO
8 REACH OR TO MAINTAIN THE 15-YEAR CAPACITY? AND
9 IT'S -- LIKE I SAY, IT'S A QUESTION THAT'S
10 UNANSWERED.

11 AND, UNFORTUNATELY, WE'RE PROBABLY
12 GOING TO HAVE TO HAVE A DAY IN COURT TO RESOLVE
13 ALL THIS. I DON'T SEE HOW THIS BOARD CAN RESOLVE
14 IT BY A WAVE OF OUR HANDS.

15 CHAIRMAN PENNINGTON: MR. JONES?

16 MEMBER JONES: MR. CHAIRMAN, JUST A
17 COUPLE OF THINGS.

18 YOUR -- I'M GOING TO USE YOUR
19 LANDFILL IN ALAMEDA COUNTY. IT'S PERMITTED FOR
20 HOW MANY TONS A DAY?

21 MR. LEARY: I DON'T KNOW
22 THAT OFF THE TOP OF MY HEAD.

23 MEMBER JONES: ARE YOU AT CAPACITY?

24 MR. LEARY: NO. WE'RE AT ABOUT
25 HALF-CAPACITY. I THINK WE'RE TAKING ABOUT 1300

1 TONS, AND I THINK OUR LIMIT'S AROUND 2500, 2600.

2 MEMBER JONES: SO WHEN YOU DID THE EIR
3 FOR THE FACILITY, IT WAS BASED ON THE 2600 TONS?

4 MR. LEARY: THAT'S RIGHT.

5 MEMBER JONES: SO THERE ISN'T A
6 PROHIBITION OF BRINGING IN WASTE TO ALAMEDA
7 COUNTY?

8 MR. LEAKY: NO, NOT AT ALL.

9 MEMBER JONES: IN FACT, THERE IS WASTE.
10 I KNOW, BECAUSE I WAS AN EXPORTER OF WASTE TO THAT
11 COUNTY.

12 MR. LEARY: THAT'S RIGHT.

13 MEMBER JONES: SO THERE IS NO
14 PROHIBITION. BUT THEY DO HAVE MITIGATION. IN
15 MOST CASES, THEY LOOK AT THE ISSUE, AND THEN THEY DO
16 A MITIGATION FOR MATERIAL COMING IN FROM SOMEWHERE
17 ELSE OTHER THAN THE MEASURE "D," THE SIX BUCKS A
18 TON.

19 MR. LEARY: THAT'S RIGHT.

20 MEMBER JONES: AND I'M NOT GOING TO HAVE
21 YOU ANSWER THIS, BECAUSE I DON'T WANT TO SET YOU
22 UP. BUT IT SEEMS LIKE EVERYBODY I'VE EVER TALKED
23 TO THAT TALKED ABOUT THE MITIGATION, IT CAME TO
24 \$4.56 OR \$4.53 CENTS APIECE NO MATTER WHERE IT
25 CAME FROM?

1 MR. LEARY: THAT'S RIGHT.

2 MEMBER JONES: SO I THINK THE QUESTION
3 IS IF IN FACT THEY'VE GOT TO DO CONCURRENCE TO SEE
4 IF THERE'S ENVIRONMENTAL IMPACTS, IT IS VERY
5 CONSISTENT THAT NO MATTER WHERE THAT WASTE WOULD
6 COME FROM, NO MATTER WHAT THE IMPACTS WOULD BE, IT
7 ALWAYS WORKS OUT THAT YOU COULD MITIGATE IT WITH
8 \$4.53.

9 THAT'S A PROBLEM IN MY MIND, BECAUSE
10 THAT IS RESTRAINT OF COMMERCE. BECAUSE IF THEY
11 CAN'T COME IN HERE -- I MEAN, SO THAT'S \$10.53 A
12 TON IN FEES FOR ANY IMPORT, AND YOU'VE DONE AN EIR ON
13 THE FACILITY THAT SAYS YOU CAN ACCEPT WHATEVER THE,
14 NUMBER IS, 3,000 TONS.

15 YOU'RE NOT THERE. SO IT WOULD SEEM TO ME THAT
16 ENVIRONMENTAL IMPACT REPORT WOULD TAKE INTO
17 ACCOUNT IT'S BASED ON 3,000 OR WHATEVER THE
18 TONNAGE NUMBER IS. SO THERE'S OBVIOUSLY SOME
19 ISSUES THERE WITH COMMERCE.

20 AND THERE'S ALSO-- I MEAN, I KNOW
21 THAT \$4.53 WAS SUPPOSED TO GO TO BUY--TO ENSURE
22 FUTURE LANDFILL SPACE THAT THE PUBLIC COULD --
23 THAT THE PUBLIC ENTITY, THE JPA, COULD BUY.
24 DOES THE PUBLIC ENTITY, THE JPA, OWN
25 ANY LANDFILLS IN ALAMEDA COUNTY?

1 MR. LEARY: NO, THEY DON'T.

2 MEMBER JONES: SO THEY GET \$4.53 A TON
3 FOR EVERYTHING THAT COMES INTO THE COUNTY OUTSIDE
4 OF YOUR WASTE SHED TO PUT INTO A TRUST FUND, I'M
5 ASSUMING. SO THEY CAN COMPETE WITH YOU GUYS AT
6 SOME POINT? OR GIVE YOU THE LAND? OR WHAT?

7 MR. LEARY: I DON'T PRETEND TO SPEAK FOR
8 THE AUTHORITY. I THINK THERE'S ALWAYS THAT
9 POTENTIAL.

10 MEMBER JONES: BECAUSE THAT'S WHERE I'VE
11 GOT A HUGE PROBLEM, BECAUSE THERE IS NO
12 PROHIBITION. THEY DON'T HAVE AN ORDINANCE THAT
13 SAYS WE WILL NOT TAKE ANY WASTE FROM ANYWHERE.
14 BECAUSE IF THEY DID THAT, THEY'D CUT OFF SAN
15 FRANCISCO. AND SAN FRANCISCO'S GOT A 60-YEAR
16 CONTRACT WITH ALAMEDA COUNTY OR WITH THE
17 ALTAMONT.

18 SO BASICALLY -- AND THIS IS A FEE.

19 I DON'T WANT TO PUT -- I DON'T WANT TO SAY THAT.

20 IT IS AN UNUSUAL SET OF CRITERIA TO DETERMINE THAT

21 ALL MITIGATION COMES TO \$4.53 PER PROBLEM.

22 I HAVE A BIGGER PROBLEM, AND ONE THAT

23 I THINK -- I DON'T WANT TO SEE THIS ISSUE GO AWAY.

24 I THINK THAT THIS HAS STATEWIDE RAMIFICATIONS.

25 BECAUSE I KNOW IN THE CONFORMANCE FINDINGS IF

1 ALAMEDA COUNTY'S JPA SAYS THEY ARE THE CONFORMANCE
2 -- THEY ARE THE PEOPLE THAT ARE GOING TO DO A
3 CONFORMANCE FINDING, THEN OUR STATUTES DON'T MAKE
4 ANY SENSE.
5 I MEAN, WE HAVE EMPOWERED THE LEA. WE
6 HAVE WORKED HARD WITH PARTNERSHIP 2,000 AND WITH
7 THE LAW TO MAKE SURE THAT THE LEA FINDS
8 CONFORMANCE. THOSE ISSUES COME TO THIS BOARD TO
9 MAKE SURE THAT THAT LEVEL OF -- THAT THE
10 CONFORMANCE IN FACT WAS DONE PROPERLY.
11 SO ANOTHER BODY THAT IS
12 DETERMINING -- AND AS I READ THE CONFORMANCE
13 FINDINGS OUT OF THE -- ON THE ENVIRONMENTAL
14 DOCUMENTATION ON SOME OF THESE OTHER THINGS, THE
15 JPA IS BASICALLY SAYING THAT THE LEA IS NOT
16 CAPABLE OF MAKING CONFORMANCE FINDINGS IN THIS
17 DOCUMENT.
18 SO IF WE'VE ACCEPTED THE DOCUMENTS,
19 DOES THAT MAKE -- DO WE HAVE TO REEVALUATE THE LEA
20 TO SEE IF, IN FACT, THEY ARE CAPABLE OF DOING
21 THEIR WORK?
22 BECAUSE IF THE JPA -- IF THE MANAGING
23 GOVERNMENT BODY DOESN'T FEEL THAT THE LEA IS
24 CAPABLE OF FINDING A CONFORMANCE FINDING, THEN
25 THAT SHOULD BE SOMETHING WE EVALUATE. MAYBE WE

1 SHOULD DECERTIFY THAT LEA AND THE WASTE BOARD CAN
2 TAKE OVER AS THE ENFORCEMENT AGENT, AND THEN I'D
3 GUARANTEE THAT WE'D BE ABLE TO MAKE A CONFORMANCE
4 FINDING. I DON'T KNOW. BUT THIS IS A MUCH
5 BIGGER IS SUE THAN JUST A FEE SCAM.

6 MR. LEARY: WELL -- AND I PURPOSELY AVOIDED
7 THE FINANCIAL ASPECT OF THIS WHOLE MATTER AND THE
8 DISCUSSION OF FEES, BECAUSE IT IS A MUCH BIGGER
9 ISSUE THAN JUST A MATTER OF FEES. IT'S A LEVEL OF
10 CONTROL, AGAIN, THAT WE THINK IS INCONSISTENT AND
11 POSSIBLY IN CONFLICT WITH THE STATE STATUTE.
12 AND I'M NOT HERE TO PICK ON ALAMEDA
13 COUNTY SPECIFICALLY. IT JUST HAPPENS TO BE THE
14 SITUATION WE'RE MOST FAMILIAR WITH. AND I THINK
15 AS PART OF -- I WOULD RESPECTFULLY SUGGEST, AS
16 PART OF THE BOARD'S FURTHER ANALYSIS, IF YOU
17 CHOOSE TO REVIEW THIS FURTHER, THAT THERE MAY BE
18 OTHER SITUATIONS THAT THE BOARD WOULD CARE TO
19 REVIEW TO CONTRAST AND COMPARE WITH WHAT WE KNOW
20 TO BE TRUE ABOUT ALAMEDA COUNTY.

21 MEMBER JONES: I HAVE A COUPLE MORE
22 QUESTIONS, MR. CHAIRMAN.

23 CHAIRMAN PENNINGTON: SURE, MR. JONES.

24 MEMBER JONES: AND I DON'T THINK YOU HAVE
25 TO GET UP TO THE PODIUM, JUDY. BUT WHEN ALAMEDA

1 COUNTY MAKES A -- WHEN THE JPA MAKES A CONFORMANCE
2 FINDING, DO THEY COME UP AND ADD THAT AS AN
3 ADDENDUM TO THEIR CIWMB AT OUR OFFICES?
4 HAVE YOU BEEN GETTING A STREAM OF
5 AMENDMENTS TO THE CIWMB THAT THEIR ACTIONS ARE
6 BEING RECORDED HERE? BECAUSE THAT SEEMS TO BE
7 WHAT THEY'RE SAYING IS THAT THEY'RE AMENDING THE
8 CIWMPS. OR ARE WE GETTING COPIES OF THAT, OF
9 THOSE AMENDMENTS?

10 MS. FRIEDMAN: YOU KNOW, WITHOUT BEING
11 ABLE TO GO BACK THROUGH OUR RECORDS, I WOULD HAVE
12 TO LOOK -- SEE ABOUT THAT. I CAN'T RECALL OFF THE
13 TOP THAT WE'VE BEEN GETTING A STREAM OF AMENDMENTS
14 ON THEIR SITING ELEMENT OR THEIR NON-DISPOSAL
15 FACILITY ELEMENTS AT THIS POINT.
16 BUT THERE ARE OPPORTUNITIES FOR ALL
17 JURISDICTIONS TO DO UPDATES OF THE FIVE-YEAR
18 REVISION AND OTHER OPPORTUNITIES. AND WE'D HAVE
19 TO GO BACK AND LOOK THROUGH THEIR DOCUMENTS TO SEE
20 THAT.

21 MEMBER JONES: OKAY. IT'S JUST STRANGE,
22 YOU KNOW, BECAUSE THEY WANT TO CONFORM TO -- OFF
23 THE CIWMB. THEN ARE WE GETTING THE AMENDMENTS, AND
24 CIWMB HAS TO COME TO US.
25 AND THEN DO WE HAVE TO BRING IT

1 FORWARD AND AMEND IT? AH-HA, THAT'S ANOTHER
2 ISSUE. DOES THE BOARD HAVE TO GET THOSE
3 AMENDMENTS AND TAKE AN ACTION BECAUSE NOW THEY'VE
4 GOT AN ALTERED CIWMB?

5 MS. FRIEDMAN: IF THEY'RE AMENDING ANY
6 PART OF THEIR CIWMB, ANY OF THE ELEMENTS, THEY --
7 IT WOULD COME TO THE BOARD, WE WOULD REVIEW IT IN
8 THE STATUTORY TIME FRAME, AND WE'D BRING IT TO THE
9 BOARD FOR APPROVAL OR DISAPPROVAL OR CONDITIONAL
10 APPROVAL, AS ACCORDING TO STATUTE.

11 MEMBER JONES: 1220 WAS STREAMLINING PART OF THE
12 COUNTY ELEMENT, AND I'M NOT SURE WHAT PAGE, 6-12, IT
13 TALKS ABOUT ENVIRONMENTAL DOCUMENTATION. AND ONE
14 POINT SAYS:

15 "THE ENVIRONMENTAL
16 DOCUMENTATION REQUIRED BY CEQA MUST BE
17 COMPLETED BEFORE THE AUTHORITY'S
18 DETERMINATION OF CONFORMANCE."

19 AND ARE THEY THE LEAD AGENCY ON EVERY
20 CEQA ISSUE IN ALAMEDA COUNTY?

21 MS. FRIEDMAN: I THINK THAT THEY WOULD
22 HAVE TO ANSWER THAT QUESTION.

23 MEMBER JONES: ARE THEY EVEN HERE? I
24 DON'T EVEN-

25 CHAIRMAN PENNINGTON: YES, THEY'RE HERE.

1 MS. FRIEDMAN: I BELIEVE THEY ARE HERE.

2 CHAIRMAN PENNINGTON: THEY'RE GOING TO
3 MAKE A STATEMENT.

4 MEMBER JONES: OKAY. I MEAN, THAT WOULD
5 BE A QUESTION THAT I WOULD LIKE TO KNOW, I MEAN,
6 AT THE TIME, IF I REMEMBER.
7 OKAY. I WILL LEAVE IT AT THAT.

8 CHAIRMAN PENNINGTON: MR. EATON.

9 MEMBER EATON: YOU MENTIONED --
10 APPARENTLY YOU'VE HAD SEVERAL OF THESE INSTANCES
11 ARISE ALREADY. IS THAT CORRECT?

12 MR. LEARY: WE HAVE TO THE BEST OF MY KNOWLEDGE.
13 I AM AWARE THAT WE HAVE SOUGHT AND GAINED FOUR
14 AMENDMENTS TO THE COUNTY INTEGRATED WASTE
15 MANAGEMENT PLAN. WE ARE IN THE MIDDLE OF A FIFTH
16 APPLICATION. ALL FIVE OF THOSE ARE IN REGARDS TO
17 EXPANSION OF OUR WASTE SHED, OUR OUT-OF-COUNTY
18 WASTE SHED FOR ACCEPTANCE OF MATERIAL AT VASCO.

19 MEMBER EATON: AND WHAT WOULD HAPPEN IF
20 YOU DIDN'T SEEK THIS APPROVAL?

21 MR. LEARY: WELL, IN THE LAST GO-ROUND,
22 WHEN WE RECENTLY REDIRECTED WASTE FROM OUR KELLER
23 CANYON FACILITY IN CONTRA COSTA COUNTY OVER TO THE
24 VASCO ROAD FACILITY IN ALAMEDA, WE NEEDED TO DO
25 THAT ON AN EXPEDITIOUS BASIS. AND WE DID PROCEED

1 TO DO THAT.

2 WE SHORTLY, THEREAFTER, GOT A FAIRLY

3 STRIDENT LETTER FROM THE AUTHORITY DIRECTING US TO

4 CEASE ACTIVITIES -- SOMETHING TO THAT EFFECT,

5 BECAUSE WE HADN'T SOUGHT THE DETERMINATION OF

6 CONFORMANCE. AND AS I RECALL--I DON'T HAVE THE

7 LETTERS HERE. THEY'RE BACK IN MY BRIEF CASE, BUT

8 SOMETHING TO THE EFFECT THAT THEY WERE GOING TO

9 DIRECT THE LEA TO FIND US IN VIOLATION AND --

10 AND AS YOU MIGHT HAVE READ IN THE

11 PROPOSED ORDINANCE 981, THERE ARE A NUMBER OF

12 SANCTIONS IN SECTION 6 FOR NOT FINDING A

13 CONFORMANCE DETERMINATION. THEY WILL DETERMINE

14 THOSE NOT -- FAILING TO SEEK A FINDING OF

15 DETERMINATION AS A NUISANCE. AND THERE ARE

16 PENALTIES ASSOCIATED WITH THOSE FAILINGS.

17 MEMBER EATON: THE REASON WHY I ASKED

18 THAT QUESTION, BECAUSE SOMETIMES WE'RE CAPTIVES OF

19 OUR OWN SORT OF RECENT EVENTS. AND HAVING SAT

20 THROUGH TWO WONDERFUL DAYS WITH A NUMBER OF PEOPLE

21 ON AB 959 -- I GUESS ANOTHER QUESTION THAT I SEE

22 HERE IS, ARE THESE APPEALABLE UNDER AB 959?

23 I MEAN, THERE IS -- I DON'T KNOW.

24 BUT, I MEAN, IF THAT'S ONE OF THE THINGS THAT

25 WE'RE JUST KIND OF HAVING A DISCUSSION ON THAT MAY

1 OR MAY NOT BE -- I MEAN, AS ONE OF THE THINGS
2 THAT HAPPENED IN THE AB 959 WORKSHOP FOR A NUMBER
3 OF PEOPLE IS, EXACTLY HOW FAR OR HOW NARROW IS
4 THIS? AND IF THERE IS THIS ENFORCEMENT SECTION
5 AND PENALTIES, I MEAN, THAT MAY VERY WELL BE
6 ANOTHER ISSUE THAT WE NEED TO JUST ADD TO OUR LIST
7 ON AB 959 OR WHATEVER WE DO.

8 MR. BLOCK: ARE YOU WANTING ME TO ANSWER
9 THAT RIGHT NOW OR JUST --

10 MEMBER EATON: NO, NO, I JUST -- IT WAS
11 JUST -- I'VE NEVER KNOWN YOU TO ANSWER THAT
12 QUICKLY.

13 CHAIRMAN PENNINGTON: ANY OTHER
14 QUESTIONS? COMMENTS? MR. FRAZEE.

15 MEMBER FRAZEE: LET ME JUST HELP MY
16 UNDERSTANDING OF THIS ISSUE A BIT. IS
17 THE IS SUE THE ADDITIONAL FEE, OR IS IT THE
18 OUTRIGHT PROHIBITION OF IMPORTING?

19 MR. LEARY: THE ISSUE IS NEITHER, AS I
20 PRESENTED IT TODAY, ALTHOUGH THEY BOTH HAVE
21 POTENTIAL CONSIDERATION OR THINGS THAT THE BOARD
22 NEEDS TO CONSIDER.

23 BUT THE ISSUE BEFORE YOU TODAY IS
24 SIMPLY THE REGULATORY PROCESS THAT A FACILITY LIKE
25 BFI'S HAS TO GO THROUGH TO ATTAIN WASTE FROM A

1 WASTE SHED NOT CURRENTLY DESIGNATED IN A PLAN.

2 AND WE DON'T SEE WHERE 939 OR

3 ANYTHING IN THE ACT ALLOWS THE AUTHORITY TO EXERT

4 THAT KIND OF REGULATORY CONTROL OVER OUR ABILITY

5 TO TAKE WASTE OUTSIDE OF THE CURRENTLY-DESIGNATED

6 WASTE SHED. BUT THERE ARE FEES ASSOCIATED WITH

7 IT.

8 MEMBER FRAZEE: YEAH. NOW, ARE OTHER

9 IMPORTERS ARE PAYING THAT FEE?

10 MR. LEAKY: YES.

11 MEMBER FRAZEE: LIKE THE CITY OF SAN

12 FRANCISCO DOLLARS PAY THAT FEE?

13 MR. LEAKY: NO.

14 MEMBER JONES: NO. THAT WAS PRE-MEASURE "D."

15 MEMBER FRAZEE: OH, IT WAS? OH.

16 MR. LEAKY: PRE-AUTHORITY, I THINK.

17 MEMBER JONES: PRE-AUTHORITY.

18 MEMBER FRAZEE: YEAH, OKAY, SO THEY ARE

19 NOT-

20 MR. LEAKY: CONTRACTS PRE-AUTHORITY.

21 THEY'RE NOT REQUIRED TO PAY THAT OUT-OF-COUNTY FEE.

22 MEMBER FRAZEE: WITHOUT REGARD TO WHAT

23 THEY'RE VOLUME OF FLOW IS?

24 MR. LEAKY: I CAN'T TELL YOU.

25 MEMBER FRAZEE: THANK YOU. YEAH, WE'RE

1 GOING TO GET THE ANSWER TO THAT QUESTION.

2 BUT, YOU KNOW, YOUR COUNSEL'S LETTER

3 SEEMS TO PUT AS MUCH EMPHASIS ON THE FEE AS IT

4 DOES ON THE AUTHORITY ISSUE.

5 MR. LEARY: THAT'S NOT MY COUNSEL'S

6 LETTER. I'M SORRY. THAT LETTER THAT I INCLUDED IN

7 YOUR PACKAGE IS THE AUTHORITY'S COUNSEL'S LETTER

8 TO THE EXECUTIVE DIRECTOR.

9 MEMBER FRAZEE: TO THE EXECUTOR -- OH,

10 OKAY-11

MR. LEARY: THE DIRECTOR OF THE

12 AUTHORITY, ALERTING HIM TO SOME CONCERNS THAT HE

13 SEES.

14 MEMBER FRAZEE: OH, I SEE, OKAY. NOW, I'M

15 A LITTLE BETTER INFORMED. OKAY. GOOD.

16 MR. LEARY: THANK YOU.

17 CHAIRMAN PENNINGTON: OKAY. THANK YOU,

18 MARK.

19 DICK EDMINSTER.

20 MR. EDMINSTER: THANK YOU. I'M THE

21 PLANNING DIRECTOR FOR THE COUNTY WASTE MANAGEMENT

22 AUTHORITY.

23 FIRSTLY, I'D JUST LIKE TO SAY I

24 BROADLY CONCURRED WITH THE ANALYSIS THAT MR. BLOCK

25 PRESENTED EARLIER, AND HOPEFULLY CAN PUT AT EASE

1 SOME OF THE CONCERNS I'VE HEARD EXPRESSED TODAY BY
2 THE BOARD MEMBERS.

3 I JUST LEARNED ABOUT THIS LAST NIGHT
4 ABOUT 9:30. SOMEBODY CALLED ME AT MY HOUSE IN SAN
5 CARLO S. AND UNFORTUNATELY, OUR LEGAL COUNSEL WE
6 COULDN'T GET HERE ON SHORT ORDER. SO I WILL DEFER
7 PERHAPS SOME OF THE QUESTIONS ON MORE THE LEGAL
8 TECHNICALITIES.

9 FIRSTLY, I WANTED TO NOTE THAT THE
10 ORDINANCE REFERRED TO BY MR. LEARY HAS NOT BEEN
11 ADOPTED. WE HAD THAT BEFORE OUR BOARD LAST WEEK,
12 IT'S CURRENTLY UNDER CONSIDERATION. BFI EXPRESSED
13 A DESIRE TO COOPERATE WITH THE AUTHORITY, AND WE
14 TOOK THAT AT FACE VALUE. WE ON OUR PART ADVISED
15 BFI THAT WE LIKED SOME OF THE SUGGESTIONS THEY'VE
16 MADE TO IMPROVE THE ORDINANCE, AND WE'LL INTEND TO
17 DO THAT, ALTHOUGH IT DOESN'T NECESSARILY SATISFY
18 THEIR CORE CONCERN IN TERMS OF OUR ABILITY TO
19 ENFORCE THE PLAN.

20 WE SEE THIS IN PART AS A LOCAL
21 CONTROL ISSUE THAT WE DERIVE OUR AUTHORITY FROM
22 OUR LOCAL JOINT POWER, JOINT EXERCISE OF POWERS
23 AGREEMENT,
24 WHICH GIVES OUR AGENCY A LEASE POWER. IT GIVES OUR
25 AGENCY THE POWER OF EMINENT DOMAIN, GIVES THE

1 AGENCY THE POWER TO ADOPT ORDINANCES, AND GIVES
2 THE AGENCY THE POWER TO ENFORCE THE PLAN. INDEED,
3 IT WAS OUR AGENCY THAT IDENTIFIED THE COUNTY
4 AGENCY TO BE THE LEA. THAT CAME FROM US
5 ORIGINALLY. SO, AGAIN, WE SEE IT AS A SIGNIFICANT
6 LOCAL CONTROL IS SUE.
7 MOST OF THE CONCERNS THAT HAVE BEEN EXPRESSED
8 TODAY BY MR. LEARY ARE WASTE SHED QUESTIONS. AND WE
9 CAN -- WE UNDERSTAND. AND OUR SYMPATHY, PARTICULARLY
10 TO BOTH THE WASTE MANAGEMENT AND THE BFI THAT
11 OPERATE IN OUR COUNTY.
12 THE ORIGIN OF THIS, YOU KNOW, TECHNICALLY, SITING
13
14 ELEMENTS TO, IN FACT, HAVE TO DESCRIBE WHERE THE FACTS
15 COME FROM.
16 IN FACT, THEY HAVE THE CCR'S AND ALL SORTS OF
17 DETAILS THAT NEED TO BE IN THE SITING ELEMENT. BUT THE
18 ORIGIN OF THE WASTE SHED REVIEW IS THE
19 FACT THAT THE ORIGINAL EIR'S FOR THESE LANDFILLS DIDN'T
20 INCLUDE IMPORT.
21 THE ALTAMONT LANDFILL, EIR, WAS DONE IN 1978
22 AND INCLUDED A SENTENCE SAYING THAT EIR DOES NOT
23 ADDRESS IMPORT OUTSIDE OF ALAMEDA COUNTY.
24 AND THAT IS WHY ALL THESE YEARS
25 EVERYTIME IT'S BEEN GOING ON FOR -- WELL, IT'S BEEN 18

1 YEARS. AND IT'S BEEN GOING ON AT LEAST THAT LONG.
2 EVERYTIME THEY NEEDED TO CHANGE THE WASTE SHED
3 IN OR OUTSIDE THE COUNTY, THEY'VE HAD TO COME TO US FOR
4 A CONFORMANCE FINDING AND PLAN AMENDMENT. WE'VE
5 NEVER DENIED A SINGLE ONE. THIS IS NOT A CASE OF COUNTY
6 ADOPTING AN ORDINANCE THAT SAYS NO IMPORT.
7 WE NEVER DENIED -- IN THOSE 18 YEARS, WE NEVER
8 DENIED A SINGLE APPLICATION FOR IMPORT. AND THE
9 COMPANIES HAVE COME BACK, AND THEY'VE SAID, "WELL,
10 THAT'S TRUE. YOU NEVER DENIED US." WHICH IS WHY, I MIGHT
11 ADD, WE'VE NEVER BEEN SUED ON ANY
12 OF THESE ISSUES. WE NEVE DENIED US (SIC), BUT IT'S A VERY
13 CUMBERSOME PROCESS TO HAVE TO COME BACK EACH TIME.
14 WELL, WE SAID WE UNDERSTAND THAT. WE DON'T
15 PARTICULARLY ENJOY HAVING TO GO THROUGH THIS PROCESS.
16 IT TAKES US A LOT OF TIME AS WELL. THE SOLLUTION IS TO
17 CONTRACT BACK AND DEFINE YOUR WASTE SHED TO BE AS BIG
18 AS YOU FIND IT MIGHT BE.
19 BOTH GARBAGE COMPANIES HAVE DONE THIS. BOTH
20 WASTE MANAGEMENT AND BFI CAME BACK TO THE AUTHORITY
21 WITH
22 APPLICATIONS TO DEFINE THE WASTE SHED LANDFILL, DAVIS
23 STREET TRANSFER, THE MAJOR TRANSFER STATION IN THE
24 COUNTY.
25 FROM NORTHERN CALIFRONIA -- EVERYTHING FROM

1 ESSENTIALLY FRESNO TO THE OREGON BORDER, WE'VE BEEN
2 PROCESSING THOSE APPLICATIONS. AND, IN FACT, LAST WEEK WE
3 APPROVED THAT FOR DAVIS STREET. AS OF THE CONCLUSION OF
4 THIS PROCESS, DAVIS STREET WILL BE ABLE TO TAKE WASTE
5 FROM ANYWHERE FROM MARS. IT WOULD BE
6 AN UNRESTRICTED WASTE SHED.
7 TO ANSWER A QUESTION, FOR SOME THERE WAS A PERIOD
8 IN THE EARLY YEARS WHEN WE HAD THE COUNTY SOD WASTE
9 MANAGEMENT PLANS. ALL THE PLAN AMENDMENTS HAD TO COME
10 TO STATE BOARD FOR APPROVAL. IN THE INTERIM PERIOD BEFORE
11 WE HAD AN ADOPTED INTEGRATED WASTE MANAGEMENT PLAN, IT
12 DIDN'T -- NOTHING CAME TO YOU. NOW THAT WE DO HAVE AN
13 APPROVED INTEGRATED WASTE MANAGEMENT PLAN, THEY WILL
14 START COMING TO YOU, AND YOU'LL
15 BE GETTING THE DAVIS STREET ONE SHORTLY.
16 BUT, AGAIN, SINCE IT -- THE WASTE SHED WILL NOT
17 BE DEFINED AS NORTHERN CALIFORNIA OR UNLIMITED, IT SHOULD
18 BE A ONE-TIME EVENT, HENCEFORTH.
19 NOW, SOMETHING HAPPENED IN THIS CASE OF
20 VASCO ROAD.
21 AND I THINK THAT'S REALLY WHY THIS HAS BECOME A HOT ISSUE.
22 WE PROPOSED TO DO A MITIGATED DECLARATION FOR THIS
23 NORTHERN CALIFORNIA WASTE SHED, AND WE CIRCULATED THAT.
24 UNFORTUNATELY --
25 AND I HAVE HERE FOR THE BOARD -- WELL, WE GOT A LARGE

1 NUMBER OF LETTERS IN RESPONSE TO THAT.
2 I WANTED TO DRAW YOUR ATTENTION TO ONE THAT
3 WAS FROM THE ALAMEDA COUNTY PLANNING DEPARTMENT.
4 THE COUNTY HAS DECIDED THAT THEIR PROPOSAL IS NOT
5 CONSISTENT WITH THE CONTINUAL USE PERMIT. IT WAS NOT
6 ADDRESSED BY THE ORIGINAL EIR. THE COUNTY HAS
7 DECIDED THEY NEED TO APPLY FOR A USED PERMIT
8 MODIFICATION TO USE PERMIT.
9 THE COUNTY IS NOW ASSUMING LEAD AGENCY
10 STATUS. THAT WAS ANOTHER QUESTION. AS LONG AS THERE
11 IS A USE PERMIT ISSUE-- TYPICALLY,
12 IN FACT, THEY HAVE TO GO FIRST. WE NEED TO HAVE THAT
13 LOCAL MENU'S APPROVAL.
14 IF LOCAL MENU APPROVAL IS NEEDED, AUTHORITY IS NOT
15 THE LEAD AGENCY.
16 WE HAVE A RESPONSIBILITY AS IF THERE IS NO
17 LOCAL MENU NEEDED, WE'RE THE LEAD AGENCY. WE
18 PROCEEDED ON VASCO ROAD, BECAUSE WE
19 THOUGHT NO LOCAL MENU WAS GOING TO BE NEEDED. WE
20 WERE WRONG ON THAT.
21 AND THAT IS NOW BACK BEFORE THE COUNTY PLANNING
22 DEPARTMENT.
23 SECONDLY, AMONG THE MANY LETTERS WE
24 RECEIVED FROM LANDFILL NEIGHBORHOODS AND CITIES AND
25 PUBLIC WORKS DEPARTMENT WAS A

1 LETTER FROM A LITTLE AGENCY CALLED THE CALIFORNIA
2 DEPARTMENT OF TRANSPORTATION. THEY FELT THAT IN
3 ALL THESE YEARS ON THE ORIGINAL SEQA ANALYSIS WAS
4 INADEQUATE TO THE TRAFFIC IMPACT THAT NOW
5 IS GOING TO BE ASSOCIATED WITH REALLY A DIFFERENT
6 KIND OF LANDFILL, A MORE REGIONAL FACILITY.
7 AGAIN, THEY'RE NOT REALLY BEFORE THE
8 AUTHORITY ANY LONGER. WE DEFERRED IN THE COUNTY
9 PLANNING DEPARTMENT WHEN BFI HAS LOCAL LANDFILL USE
10 APPROVAL, THEY CAN COME BACK TO US.
11 AND AT THAT POINT, I WOULD IMAGINE IT WOULD BE JUST AS
12 SIMPLE AS IT WAS FOR DAVIS STREET, IN TERMS OF GOING
13 THROUGH AND GETTING IT APPROVED.
14 THE QUESTION CAME UP IN TERMS OF THERE WAS A
15 MENTION ABOUT LANDFILL CAPACITY. AND THERE IS A
16 CONCERN IN ALAMEDA COUNTY. WE ARE ACTUALLY AT THE
17 POINT WHERE WE HAVE JUST 15 YEARS.
18 AND WE HAVE NOT LOOKED AT THE QUESTION OF IMPORT.
19 WE'VE LOOKED AT ONLY IN TERMS OF TRYING TO ANALYZE
20 WHAT IMPACT THAT'S GOING TO BE IF WE HAVE
21 ADDITIONAL IMPORT, TRYING TO DO OUR PLANNING. WE'VE
22 NOT APPROACHED IT FROM THE STANDPOINT OF PROHIBITION
23 IMPORT, BECAUSE WE'RE NOT GETTING INTO A SITUATION
24 WHERE WE HAVE NOT AS MUCH LANDFILL CAPACITY.
25 IN TERMS OF THE MITIGATION FEE, THAT'S A

1 MATTER THAT ALSO IS RIGHT NOW BEFORE OUR AUTHORITY
2 BOARD. IT IS PROPOSED TO REDUCE THAT FEE FROM THE 453
3 TO A FEE THAT IS AGREED TO BY THE GARBAGE
4 COMPANIES AND CEASED TO BE A MITIGATION FEE.
5 TIMES HAVE CHANGED SINCE THAT FEE WAS
6 ORIGINALLY IMPOSED. NOT ONLY THE COURT DECISIONS
7 BUT THE AUTHORITY TOOK THE MONEY IT GOT ON
8 MITIGATION FEES AND, IN FACT, ACQUIRED 1,600 ACRES OF
9 LAND.
10 IT HAS NEVER BEEN OUR THOUGHT TO DEVELOPE
11 A LANDFILL TO COMPETE WITH THE EXISTING OPERATIONS.
12 AND WE'VE TAKEN NO ACTION TO INITIATE DEVELOPEMENT
13 OF A LANDFILL.
14 BUT AT THE TIME THIS WAS ALL HAPPENING,
15 LANDFILLS WERE CLOSING OUT AROUND THE COUNTRY AND
16 ENVIRONMENTAL PROBLEMS WERE COMING UP. AND WE
17 WANTED A SAFETY NET IN ALAMEDA COUNTY.
18 SO IT WASN'T GOING UP ON A BARGE SOME PLACE. SO WE'VE
19 DONE -- WE'VE ACQUIRED THE LANDS. THE REST OF THE
20 MONEY WE USED TO PRESERVE LANDFILL CAPACITY
21 BY WAY OF ENCOURAGING RECYCLING.
22 AND NOW ALL THE MONEY ESSENTIALLY GOES INTO
23 SUPPLEMENTAL -- THE MEASURE "D" AND GOES TO
24 RECYCLING.
25 HOWEVER, IN LIGHT OF THE FACT THAT WE

1 COMPLETED ESSENTIALLY THE LAND ACQUISITION AND IN
2 LIGHT OF COURT DECISIONS, PRESENTLY BEFORE THE
3 AUTHORITY IS A CONSIDERATION TO REDUCE THAT
4 FEE TO A LEVEL THAT IS ACCEPTABLE TO THE LANDFILL
5 OPERATORS.

6 SO I THINK I'LL PROBABLY STOP THERE AND
7 ENTERTAIN ANY QUESTIONS.

8 CHAIRMAN PENNINGTON: MR. FRAZEE?

9 MEMBER FRAZEE: JUST ONE QUESTION. YOU STATED
10 THAT YOU'RE NEARING THE 15-YEAR CAPACITY. DOES THAT
11 INCLUDE THE ALTAMONT EXPANSION OR NOT?

12 MR. EDMINSTER: THE ALTAMONT EXPANSION
13 HAS NOT YET COME TO US. IT'S STILL AT THE LAND
14 USE STAGE WITH THE COUNTY BOARD OF SUPERVISORS
15 ESSENTIALLY.

16 WHEN IT COMES, THAT WILL SOLVE THE --
17 WE HAVEN'T BEEN TOO WORRIED ABOUT IT, BECAUSE WE
18 WERE ANTICIPATING, IN FACT, THE ALTAMONT LANDFILL
19 EXPANSION, AND THAT WOULD ESSENTIALLY SOLVE THE
20 PROBLEM. BUT WITHOUT THAT LANDFILL EXPANSION,
21 WE'RE HOPING THAT THE BOARD WILL RESOLVE THIS
22 FAIRLY SOON, BECAUSE NEXT YEAR WE HAVE TO SUBMIT
23 AN ANNUAL REPORT TO YOU. AND IF THE BOARD OF
24 SUPERVISORS HAS NOT RESOLVED THE ALTAMONT
25 EXPANSION, WE'RE GOING TO HAVE TO EXPLAIN WHAT

1 WE'RE GOING TO DO TO ADD MORE CAPACITY.

2 MEMBER JONES: MR. CHAIRMAN?

3 CHAIRMAN PENNINGTON: YES, MR. JONES.

4 MEMBER JONES: I APPRECIATE THE COMMENTS

5 AND, BELIEVE ME, I THINK THIS IS A LOCAL ISSUE. I

6 ABSOLUTELY AGREE THAT THESE THINGS ARE LOCAL

7 ISSUES.

8 WHERE I HAVE A PROBLEM, AND IT'S NOT

9 JUST ALAMEDA COUNTY, THERE ARE SOME OTHER

10 COUNTIES THAT WE NEED TO AT LEAST HAVE THE

11 DISCUSSION ABOUT. BECAUSE WHEN THEY REFER TO

12 THE CIWMB AS THE DOCUMENT, AS THE AUTHORITATIVE

13 DOCUMENT OR WHATEVER, HOWEVER THEY DO IT -- OUR

14 QUESTION WAS --

15 OR MY QUESTION WAS, HOW CAN THEY DO THAT? HOW

16 CAN THEY REFER -- HOW CAN THEY TAKE OUR

17 AUTHORITY AND STATUTE AND USE THAT AS THE

18 DOCUMENT THAT'S GOING TO GUIDE, NOT PLAN BUT BE

19 THE ENFORCEMENT?

20 BECAUSE AN ENFORCEMENT DOCUMENT IS

21 CONSIDERABLY DIFFERENT THAN A PLAN DOCUMENT, AS

22 YOU KNOW. I MEAN, IT IS A NEGOTIATED -- OR AT

23 LEAST YOU TALK ABOUT THE CONDITIONS AND YOU

24 AGREE AND YOU DON'T AGREE, AND YOU WORK THOSE THINGS

25 OUT.

1 AND MY QUESTION IN SANTA BARBARA, TO
2 PUT IT INTO A SIMPLER PIECE, WAS IF THE COUNTY
3 DECIDED TO USE THE CIWMB AS THE ENFORCEMENT TOOL.
4 THEN THE PUBLIC EDUCATION ELEMENT OF THAT, IF
5 SOMEBODY WASN'T TEACHING RECYCLING AT A SCHOOL,
6 WOULD YOU GO AFTER THE TEACHER OR THE SCHOOL
7 DISTRICT? AND I SAID IT TO BE A LITTLE BIT
8 ABSURD. BUT IT'S THE SAME TYPE OF AN ISSUE. THEY
9 HAVE SEPARATE FUNCTIONS, I THINK.
10 AND I AGREE WITH YOU. THESE THINGS
11 ARE LOCAL ORDINANCE ISSUES. BUT I GET REAL
12 NERVOUS, BECAUSE IF A COUNTY WAS GOING TO BE SUED
13 FOR RESTRAINT OF TRADE, RESTRAINT OF COMMERCE, ANY
14 OF THOSE TYPES OF ISSUES, FLOW CONTROL, DOES THE
15 FACT THAT WE APPROVED THE PLAN AND THEY'RE USING
16 THAT AS THE DOCUMENT MAKE US -- ARE WE ONE OF THE
17 ONES THAT ARE GOING TO GET SUED AT THE SAME TIME?
18 AND THAT IS A VERY IMPORTANT IS SUE.
19 AND I WOULD HOPE THAT THIS ITEM
20 STARTS THE DISCUSSION AND THAT WE NARROW -- OR WE
21 COME BACK AND TRY TO FIGURE OUT JUST WHAT IS THE
22 APPROPRIATE ROLE AND HAVE MORE DISCUSSIONS AND
23 LET CITIES AND COUNTIES TALK ABOUT THESE IS SUES.
24 BECAUSE I FULLY AGREE THAT A CITY --
25 IT WAS ONE OF MY ARGUMENTS, DURING THE RSU

1 PROCESS, WAS HOW YOU COULD PUT A COUNTY IN
2 JEOPARDY IF A WASTE WAS TERMED SOMETHING ELSE AND
3 SOMEBODY ELSE SAW IT AS A WAY OF FILLING UP
4 LANDFILL AND GETTING OUT OF THE BUSINESS REAL
5 QUICK AND THEN SADDLING THAT JURISDICTION WITH NO
6 LANDFILL CAPACITY, THOSE TYPES OF THINGS.

7 SO I FULLY AGREE WITH THAT. I THINK
8 THAT HAS TO BE PART OF ANY DISCUSSION. I JUST
9 WORRY ABOUT PROVISIONS AND THE USE OF TERMS WHEN
10 IT COMES TO RELYING ON OUR DOCUMENTS, OUR
11 EXCEPTIONS, TO BE AN ENFORCEMENT DOCUMENT. I
12 THINK WHEN THEY'RE USED THAT WAY IT CREATES ROOM
13 FOR DISCUSSION. BUT I AGREE THAT AN ORDINANCE IS
14 COMPLETELY A CITY OR COUNTY'S BUSINESS.

15 MR. EDMINSTER: YOUR REMARKS REMINDED ME
16 I WANTED TO NOTE THAT WE HAVE NEVER BEEN IN
17 CONFLICT WITH THE DECISIONS OF THE LEA. THE LEA
18 HAS ALWAYS ASKED US THE QUESTION DOES THIS CONFORM
19 WITH THE PLAN, AND WE'VE FELT HE'S ALWAYS HAD THE
20 AUTHORITY TO ASK US OR ANYONE ELSE AS FAR AS THAT
21 GOES. HE'S ALWAYS ASKED US. AND HE'S ALWAYS, IN
22 FACT, GONE ALONG WITH WHAT WE'VE ADVISED HIM. AND
23 SO WE'VE NEVER HAD A SITUATION OF CONFLICT.
24 AND THE IS SUE WITH THE 15 YEARS, THE
25 ONLY TIMES WE'VE REALLY HAD AMENDMENTS TO THE

1 SITING ELEMENT REALLY WERE EITHER NEW FACILITIES,
2 WHICH I THINK IT'S DESIGNED TO ADDRESS OR MAJOR
3 CHANGES OR THIS WASTE SHED IS SUE.
4 BUT IT'S A PROBLEM WHEN THE STATE
5 REQUIRES US TO HAVE 15 YEARS OF CAPACITY, BUT WE
6 DON'T REALLY KNOW WHAT THAT CAPACITY -- HOW MUCH
7 CAPACITY WE HAVE IF WE DON'T KNOW WHERE IT'S
8 COMING FROM AND HOW MUCH IS COMING. SO SIMPLY FOR
9 PLANNING PURPOSES, WE FEEL WE NEED TO TRACK THIS
10 PROCESS.

11 OTHERWISE, THE ONLY OTHER OPTION
12 REALLY IS TO MAKE THE ASSUMPTION THAT THE
13 LANDFILLS ARE GOING TO OPERATE AT MAXIMUM
14 CAPACITY. IN THE CASE OF VASCO, IF IT'S THE 2500
15 TONS PER YEAR, TWICE WHAT THEY'RE ACTUALLY
16 GETTING. IN THE CASE OF ALTAMONT, IT WOULD BE
17 SEVERAL MILLION TONS A YEAR, MORE THAN THEY'RE
18 ACTUALLY GETTING. THE PROBLEM WITH THAT IS, THEN,
19 IS THAT WE'RE IN A POSITION OF TRYING TO PROVIDE
20 FOR A CAPACITY THAT WE DON'T REALLY NEED.

21 MEMBER JONES: BUT FOR PLANNING PURPOSES,
22 AS PART OF THE EQUATION, ISN'T THE PERMITTED
23 CAPACITY ONE OF THE ISSUES?
24 BECAUSE WHEN YOU'RE DOING A SITING
25 ELEMENT YOU'VE GOT TO PUT DOWN WHAT YOUR SITING

1 CAPACITY IS, WHETHER OR NOT A JURISDICTION FILLS
2 IT IS NOT PART OF THE PLANNING PROCESS. BECAUSE
3 THEN A JURISDICTION THAT DIDN'T WANT TO EXPAND A
4 LANDFILL COULD SAY, "WELL, YEAH, YOU KNOW, IF YOU
5 LOOK AT WHAT WE'RE PERMITTED FOR, AND YOU LOOK AT
6 WHAT WE'RE CAPABLE OF, WE'VE GOT 15 YEARS OR
7 WE'VE GOT 10 YEARS' CAPACITY, BUT REALLY WE'RE NOT
8 GOING TO WORRY ABOUT IT BECAUSE WE'LL ONLY TAKE 70
9 TONS A DAY. AND THAT'S A QUARTER OF WHAT WE'RE
10 PERMITTED FOR." THAT'S NOT GOOD PLANNING.

11 MR. EDMINSTER: I CONCUR.

12 MEMBER JONES: YOU'VE GOT TO MAKE THAT
13 PLANNING -- FROM A GOVERNMENT STANDPOINT, I WOULD
14 THINK. YOU'D MAKE THAT PLANNING DOCUMENT BASED ON
15 PERMITTED, BECAUSE IF IT'S COMING IN, YOU NEED TO
16 KNOW. YOU NEED TO BE AWARE THAT, OKAY, 2500 TONS A
17 DAY IS GOING INTO VASCO. SOT KNOW THAT IN--AND
18 I DON'T KNOW ENOUGH ABOUT BFI AND THEIR OPERATIONS
19 -- BUT IF THAT TAKES THAT FACILITY OUT TO 15
20 YEARS, OR 10 YEARS -- OKAY? THEN YOU MAKE A -- I
21 WOULD THINK YOU'D MAKE A MARK THERE. YOU'D SAY
22 THIS FACILITY HAS ANTICIPATED 10 YEARS OF CAPACITY
23 LEFT.
24 IF IT'S MORE, AND YOU GET TO THAT 10-
25 YEAR -- YOU GET TO THAT EIGHT-YEAR MARK AND YOU'VE

1 GOT ANOTHER FACILITY OPERATING, AND YOU SAY THEY
2 HAVEN'T USED ALL THEIR CAPACITY. THEY STILL HAVE
3 ANOTHER 10 YEARS. THEN THAT IS THE WAY I SEE IT.

4 MR. EDMINSTER: WE MAY END UP DOING
5 EXACTLY THAT. NOW, IN THE PAST, WE WERE ABLE TO
6 PROJECT ALAMEDA COUNTY'S WASTE STREAM AS
7 DEFINED. AND THEY HAVE TO MEET OUR RECYCLING
8 GOALS. AND WE KNOW SAN FRANCISCO AND THEIR
9 CONSTRAINTS AND THE OTHER FEW IMPORTERS WHO ARE
10 ABLE TO PROJECT SOMETHING LIKE A REALISTIC WASTE
11 FLOW.
12 AS THESE FACILITIES ALL BECOME
13 UNLIMITED OR NORTHERN CALIFORNIA, WE VERY LIKELY
14 ARE GOING TO HAVE TO DO SOMETHING ALONG THE LINES
15 YOU'VE SUGGESTED.

16 CHAIRMAN PENNINGTON: OKAY. WE HAVE ONE MORE,
17 MIKE MOHAJER.

18 MR. MOHAJER: GOOD AFTERNOON, CHAIRMAN,
19 MEMBERS OF THE BOARD. MY NAME IS MIKE MOHAJER.
20 I'M WITH LOS ANGELES COUNTY, DEPARTMENT OF PUBLIC
21 WORKS.
22 AND AS A RESPONSIBLE AGENCY FOR
23 PREPARATION OF THE SITING ELEMENT, AND ONE OF THE
24 TWO JURISDICTIONS THAT CALIFORNIA
25 DOES HAVE THE FINDING OF CONFORMANCE PROCESS --

1 SITTING OVER THERE, I WASN'T GOING TO SPEAK, BUT
2 BECAUSE OF SELF-INTEREST -- I DO APPRECIATE I'M
3 NOT IN ELLIOT'S SHOES. IT IS A LEGAL ISSUE.
4 ONE THING I DO WANT TO MENTION, THAT
5 OUR FINDING OF CONFORMANCE PROCESS IS REALLY
6 LOOKING AT IT FROM -- PROBABLY FROM DIFFERENT
7 ANGLES. FROM THE STANDPOINT THAT THE LAW SAYS ANY
8 NEW FACILITIES OR EXPANSION OF EXISTING FACILITIES
9 THAT ARE NOT IDENTIFIED, YOUR DOCUMENT, THEN YOU
10 HAVE TO AMEND THE DOCUMENT BEFORE THE PLAN IS --
11 FACILITY IS APPROVED.
12 FOR LOS ANGELES COUNTY HAVING 89
13 JURISDICTIONS AND GOING THROUGH THE SITING
14 ELEMENT, THAT TOOK US THREE YEARS TO GO THROUGH
15 THE LOCAL APPROVAL PROCESS. IT MAKES A
16 SUBSTANTIAL DIFFERENCE FOR A PROJECT PROPONENT
17 WAITING TWO, THREE, OR MORE YEARS. AND MY
18 EXPERIENCE, BEING INVOLVED WITH THIS ISSUE FOR
19 OVER 20 YEARS, THE WHOLE PERMITTING PROCESS OF THE
20 FACILITY YOU'RE TALKING ABOUT BETWEEN 10 TO 15
21 YEARS NOW. AND ADDING THIS OTHER PROCESS OF
22 DEFINING CONFORMANCE MAKES IT SUBSTANTIALLY MORE
23 DIFFICULT.
24 OUR FINDING OF CONFORMANCE PROCESS IS
25 BEING IS SUED BY THE LOCAL TASK FORCE, WHICH ITS

1 FORMATION WAS APPROVED BY THE MAJORITY OF THE
2 CITIES CONTAINING THE MAJORITY OF THE POPULATION
3 AND THE BOARD OF SUPERVISORS. THE WHOLE PROCESS
4 WAS IDENTIFIED IN THE SITING ELEMENT, IS THE
5 PROCESS THAT WE HAVE BEEN USING SINCE 1980. IT IS
6 IN THE COUNTY SOLID WASTE MANAGEMENT. AND WE GET
7 INVOLVED ONLY, AGAIN, NEW FACILITIES OR EXPANSION.
8 THERE ARE NO RESTRICTION OF THE RISK CONTROL OR
9 WASTE SHED OR NEEDING ANY MONEY OR FEE BEING PAID
10 FOR A FINDING OF CONFORMANCE. AND WE ARE THERE AS
11 A TOOL TO THE ENFORCEMENT AGENCY.
12 SO THIS IS SOME ISSUES THAT REALLY
13 DOES HAVE TO BE ADDRESSED. AND SOONER OR LATER
14 THERE WILL BE FACILITIES THAT IS NOT IDENTIFIED IN
15 OUR SITING ELEMENT.
16 MR. FRAZEE DISCUSSED THE ORANGE
17 COUNTY. ORANGE COUNTY DO OWN ALL THEIR LANDFILLS.
18 SO BECAUSE THEY DID OWN THE LANDFILLS, THEY HAD PUT
19 THE RESTRICTION ON IMPORTATION. SO AFTER THE
20 BANKRUPTCY WHAT THEY DID, THEY -- ACTUALLY, THE
21 BOARD OF SUPERVISORS APPROVED, MODIFIED THE
22 ORDINANCE THAT THEY WOULD ACCEPT WASTE FROM
23 OUTSIDE OF THE COUNTY, SUBJECT TO SIGNING AN
24 AGREEMENT. IN OTHER WORDS, THEY AWARDED A
25 CONTRACT TO SEVERAL HAULERS TO IMPORT THE WASTE.

1 CURRENTLY, SAN BERNARDINO COUNTY DOES
2 HAVE THE ORDINANCE WHICH PROHIBITS IMPORTATION OF
3 WASTE INTO SAN BERNARDINO COUNTY. AGAIN, BECAUSE
4 THEY DO OWN ALL OF THEIR LANDFILLS, EVEN THOUGH
5 NORCAL IS OPERATING IT.
6 RIVERSIDE COUNTY, TALKING ABOUT THE
7 WHOLE SPHERE OF WITH ALAMEDA -- RIVERSIDE BOARD OF
8 SUPERVISORS, THEY APPROVED EL SOBRANTE LANDFILL JUST
9 ABOUT FOUR OR FIVE MONTHS AGO. THEY DID IMPOSE THE
10 HOST FEE.
11 THE HOST FEE NOW RUNS, DEPENDING AS THE YEARS GOES
12 LATER ON, GOES FROM \$3.00 TO \$12.00 PER TON FOR
13 THE HOST FEE.
14 THAT'S ALL I HAVE. IF YOU HAVE ANY
15 QUESTIONS, I'LL BE MORE THAN HAPPY TO ANSWER.

16 CHAIRMAN PENNINGTON: ANY QUESTIONS? MR. FRAZEE.

17 MEMBER FRAZEE: THAT RIVERSIDE COUNTY
18 HOST FEE APPLIES BOTH TO IN-COUNTY AND OUT-COUNTY
19 WASTE EQUALLY?

20 MR. MOHAJER: NO. ONLY FOR OUTSIDE
21 COUNTIES. AS A PART OF THEIR LAND USE PERMIT,
22 WHEN THEY APPROVED THE EXPANSION OF EL SOBRANTE,
23 WAS 40 PERCENT OF THE CAPACITY AT EL SOBRANTE
24 LANDFILL IS ALLOCATED TO RIVERSIDE COUNTY FOR THE
25 LIFETIME. THE OTHER PORTION OF THE OTHER 60 PERCENT --

1 I FORGOT WHETHER THE 60 PERCENT IS
2 FOR IN-COUNTY OR OUT-OF-COUNTY. THE REST OF IT IS
3 FOR WASTE THAT COMES FROM OUT OF COUNTY. AND IT
4 GOES TO THE DIFFERENT RATES, BUT IT GOES UP TO
5 \$12.00 A TON.
6 IT'S A MAJOR ISSUE, AGAIN, FOR L.A.
7 COUNTY FROM THE STANDPOINT THAT SOONER OR LATER WE
8 HAVE TO IMPORT -- MATTER OF FACT, WE ARE IMPORTING
9 RIGHT NOW. AND IT WASN'T THAT WE DON'T WANT TO
10 KEEP THE WASTE IN L.A. COUNTY. WE LOOKED AT OVER
11 150 SITES. WE SPENT MILLIONS AND MILLIONS. THERE
12 ISN'T ANYTHING LEFT.

13 CHAIRMAN PENNINGTON: MR. RHOADS.

14 MEMBER RHOADS: WHAT'S THE BASIS FOR THE
15 \$3.00 TO \$12.00 DIFFERENTIAL?

16 MR. MOHAJER: THE BASES ARE -- IT GOES AS
17 THE YEARS GOES ON, ECONOMIC INCENTIVE FOR THE
18 RESIDENTS OF THE COUNTY OF RIVERSIDE TO HAVE THE
19 LANDFILL IN THEIR JURISDICTION.

20 MEMBER RHOADS: I'M SORRY. I DIDN'T FINISH. THE
21 FEE, THE \$3.00 FEE OR THE \$12.00 FEE, WHAT'S THE BASIS FOR
22 EITHER THE \$3.00, OR THE \$12.00, OR THE \$10.00, OR THE \$9.00?
23 I MEAN, WHAT'S THE --

24 MR. MOHAJER: THAT WAS PART OF THE
25 NEGOTIATION BETWEEN WESTERN WASTE USA

1 AND NOW WASTE MANAGEMENT IN ORDER TO GET THEIR
2 LAND USE PERMIT.

3 MEMBER RHOADS: BUT WHO PAYS -- WHAT TYPE
4 OF WASTE STREAM WOULD PAY THE \$12.00, AND WHAT TYPE
5 OF WASTE STREAM WOULD PAY THE --

6 MR. MOHAJER: THE \$12.00, THE RATE STARTS
7 AT \$3.00 AND OVER THE YEARS --

8 MEMBER RHOADS: IN THE FUTURE?

9 MR. MOHAJER: -- IN THE FUTURE YEARS GOES
10 UP TO \$12.00. BUT IT'S ALREADY BEEN SPECIFIED.
11 AND IT IS ALSO SUBJECT TO CHANGE BY THE BOARD OF
12 SUPERVISORS.

13 CHAIRMAN PENNINGTON: VERY GOOD. THANK
14 YOU.

15 MR. MOHAJER: THANK YOU.

16 CHAIRMAN PENNINGTON: THAT CONCLUDES THAT
17 PORTION.

18 AND WE WILL NOW RECESS FOR LUNCH. AND LET'S BE
19 BACK AT 2:00. OKAY WITH EVERYBODY?

20 (OFF THE RECORD, LUNCHEON RECESS)

21 CHAIRMAN PENNINGTON: OKAY. WE'LL COME BACK INTO
22 SESSION.

23 FIRST OFF, LET'S SEE IF THERE'S ANY EX PARTES.

24 MR. FRAZEE?

25 MEMBER FRAZEE: YES, MR. CHAIRMAN. I HAVE A

1 LETTER THAT ARRIVED FROM THE CITY OF LA VERNE. IT IS
2 PARTIALLY RELEVANT TO ITEM 8 ON OUR AGENDA, THE
3 COUNTY'S -- LOS ANGELES COUNTY'S BASE-
4 YEAR DETERMINATIONS. AND IT'S SIGNED BY MARTIN LOMELI,
5 CITY MANAGER OF THE CITY OF LA VERNE.

6 CHAIRMAN PENNINGTON: OKAY. THANK YOU.

7 MEMBER EATON: MR. CHAIR, I UNDERSTAND I ALSO
8 HAVE GOTTEN THAT LETTER FROM THE CITY OF LA VERNE.
9 AND I HAD A SHORT, BRIEF CONVERSATION WITH DENISE
10 DELMATEIR REGARDING HUMBOLDT.

11 MEMBER JONES: MR. CHAIRMAN?

12 CHAIRMAN PENNINGTON: MR. JONES.

13 MEMBER JONES: THE EXACT TWO ITEMS, I HAD
14 THE LETTER, AND I HAD A BRIEF DISCUSSION WITH MS.
15 DELMATEIR.

16 CHAIRMAN PENNINGTON: OKAY. AND I APPARENTLY
17 GOT A FAX FROM DWAIN GOFORTH OF ARCATA ON THE
18 ADDENDUM ONE ISSUE. AND I THINK THAT'S BEEN
19 HANDED TO YOU ALL.

20 OKAY. IN MY HASTE TO GET TO LUNCH, WE
21 DIDN'T FINISH UP WITH NUMBER SIX. AND I KNOW THAT
22 MR. JONES HAS SOME COMMENTS. HE'D LIKE TO MAKE AN -- OH,
23 EXCUSE ME.

24 MR. RHOADS, DO YOU HAVE ANY EX
25 PARTES?

1 MEMBER RHOADS: NO, I DO NOT.

2 CHAIRMAN PENNINGTON: OKAY. GO AHEAD,
3 MR. JONES.

4 MEMBER JONES: WELL, MR. CHAIRMAN, I'D
5 LIKE TO SEE THIS ITEM LOOKED AT NOT SPECIFICALLY
6 IN ANY QUICK TIME -- I MEAN, IT DOESN'T HAVE TO
7 COME BACK IN THE NEXT MONTH, BUT I THINK THERE ARE
8 SOME ISSUES THAT WE RAISED ABOUT THE LEA AND
9 CONCURRENCE ISSUES. I THINK THERE'S SOME ISSUES
10 ABOUT THE CIWMB. AND I THINK WE JUST NEED TO KEEP
11 OUR -- MAYBE WE NEED TO LOOK AT THIS. I THINK THE
12 RAMIFICATIONS ARE PRETTY DEEP.
13 WE HAD TESTIMONY FROM ALAMEDA COUNTY,
14 BUT THERE ARE OTHER COUNTIES OUT THERE, AND I
15 THINK WE NEED TO KNOW WHAT THE RAMIFICATIONS ARE.
16 MR. EATON AND I WERE HAVING A
17 DISCUSSION ABOUT SOME OTHER PROBLEMS WE MIGHT HAVE
18

19 MEMBER EATON: WELL, IF
20 THIS IS THE CASE, MAYBE AB 959 COMES INTO PLACE.
21 AND IF WE INCORPORATE IT INTO OUR AB 959 DISCUSSION
22 POINTS FROM TIME TO TIME AND HAVE THAT SORT OF
23 PERCOLATE UP AS WELL, WE WOULDN'T BE ACTUALLY
24 CREATING ANY NEW PROCESS, BUT RATHER JUST
25 CONTINUING SOME OF THE ANCILLARY ISSUES THAT WOULD

1 POP UP WITHOUT ANY OTHER KIND OF OVERBURDENING.

2 CHAIRMAN PENNINGTON: DOES THAT WORK FOR
3 YOU?

4 MEMBER EATON: STOPPING THE FLOW OF
5 INFORMATION --

6 CHAIRMAN PENNINGTON: DOES THAT WORK FOR
7 YOU, ELLIOT, OR WOULD YOU RATHER --

8 MR. BLOCK: WELL, I'M CERTAINLY AVAILABLE
9 AT THE BOARD'S DIRECTION TO DO SOME ADDITIONAL
10 LOOKING INTO THIS. AND I GUESS WHAT I FEEL THAT I
11 WOULD NEED IS A LITTLE BIT MORE IN THE WAY OF
12 SPECIFICS. YOU KNOW, THE ITEM HAS A LARGE NUMBER
13 OF DIFFERENT IS SUES THAT ARE IN THERE. AND IF
14 THERE'S ONE OR TWO THAT YOU SPECIFICALLY WANT ME
15 TO COME BACK WITH SOME INFORMATION ON, I CAN DO
16 THAT. WE HAD A COUPLE OF DIFFERENT THINGS WE WERE
17 TALKING ABOUT TODAY, BUT I GUESS I NEED SOME MORE
18 DEFINITION ON THAT.

19 CHAIRMAN PENNINGTON: RIGHT. WELL, I
20 THINK THAT'S CERTAINLY AN ISSUE. BUT I THINK IT'S
21 ALSO AN IS SUE THAT MR. JONES WOULD LIKE TO HAVE
22 MAYBE SOME OTHER JURISDICTIONS LOOKED AT AND SEE
23 IF THIS IS A GROWING PROBLEM OR JUST A UNIQUE
24 PROBLEM TO ALAMEDA COUNTY.
25 IS THAT RIGHT, MR. JONES?

1 MEMBER JONES: YEAH. I THINK THE
2 DISCUSSION GOT CENTERED AROUND ALAMEDA COUNTY. BUT,
3 IN FACT, THERE'S JUST A LOT OF IMPLICATIONS.
4 I THINK WHEN MR. EATON BROUGHT UP
5 SOME OF THOSE THINGS ABOUT AB 959, PART OF THE AB
6 959 DISCUSSION IS WHAT IS APPEALABLE, YOU KNOW, IS
7 A VIOLATION APPEALABLE. BUT UNDER THE ORDINANCE
8 THAT WE LOOKED AT, THEY CAN ASSIGN PENALTIES AS A
9 VIOLATION. IS THAT APPEALABLE UNDER AB 959? I
10 MEAN, THERE'S SOME QUESTIONS THAT I'M NOT SURE I
11 KNOW THE ANSWER TO THAT I'D LIKE TO SPEND A LITTLE
12 TIME THINKING ABOUT.

13 MR. BLOCK: WHAT I'VE GOT IS THE AB 959
14 QUESTION -- I GOT THAT.
15 AND IT SOUNDS LIKE WHAT YOU'RE
16 LOOKING FOR PERHAPS IS JUST SOME FACTUAL
17 INFORMATION AT THIS POINT ABOUT WHAT'S IN SITING
18 ELEMENTS IN TERMS OF ENFORCEMENT PROVISIONS, IF
19 THERE ARE ANY OTHER COUNTIES OUT THERE. AND YOU
20 KNOW, RIVERSIDE AND SAN BERNARDINO WERE BROUGHT UP
21 AS EXAMPLES. SO I CAN CERTAINLY COME BACK WITH
22 SOME INFORMATION ABOUT WHAT THE ORDINANCES SAY.
23 A QUESTION I GUESS I HAVE IS, AGAIN,
24 IS THAT AT THIS POINT MAY BE INCREMENTAL, JUST
25 SPECIFICALLY THOSE THINGS, OR WERE YOU EXPECTING

1 SOME SORT OF MORE COMPREHENSIVE REVIEW STATEWIDE?

2 MEMBER JONES: MR. CHAIRMAN, I THINK TODAY'S
3 DISCUSSION WAS A GOOD DISCUSSION. IT BROUGHT UP AN
4 AWFUL LOT OF ISSUES. I THINK CLEARLY THERE IS A
5 SEPARATION BETWEEN WHAT A LOCAL GOVERNMENT CAN DO
6 AND WHAT WE CAN DO. BUT WHEN OUR NAME IS USED IN
7 VAIN AS THE AUTHORITY, EVEN THOUGH WE ANSWERED
8 THAT QUESTION, I THINK WE OWE IT TO OURSELVES TO
9 LOOK AT THIS.

10 WHEN WE LOOK AT UNDER THE ACT WHERE
11 REGIONAL AGENCIES -- WHEN YOU LOOK AT WHAT THE
12 REQUIREMENTS ARE, IT'S THINGS LIKE IF THEY DON'T
13 MEET THE MANDATE, HOW DO WE PASS OUT THE FINE? IF
14 ONE OF THEM BREAKS AWAY, HOW DO WE DO THAT?
15 SO CLEARLY, THIS WAS WRITTEN TOWARDS
16 GETTING TO THE MANDATED DIVERSION LEVELS AND
17 LETTING FACILITIES AND STUFF ON THESE REGIONAL
18 AGENCIES WORK TOGETHER TO GAIN EFFICIENCIES, GAIN
19 MORE FOR THEIR BUCKS, THOSE TYPES OF THINGS. AND
20 I THINK THAT'S HOW EVERYBODY WALKED INTO THIS. IF
21 NOW THEY'RE BEING USED AS ENFORCEMENT DOCUMENTS,
22 THEN I THINK WE OWE IT TO OURSELVES TO LOOK AT
23 THAT.

24 AND, ELLIOT, I'M NOT SAYING THIS IS
25 SOMETHING THAT HAS TO COME BACK IN TWO WEEKS OR A

1 MONTH. BUT I THINK IT'S SOMETHING THAT WE JUST
2 CAN'T FORGET ABOUT. I DON'T THINK WE CAN WALK OUT
3 OF HERE AND SAY, OH, WE HAD A NICE DISCUSSION, AND
4 THAT'S IT.

5 SO AT SOME POINT, AS THE IDEAS GET
6 DEVELOPED, OR MAYBE AS OTHER BOARD MEMBERS BRING
7 UP SOME OF THEIR CONCERNS AFTER THEY THINK ABOUT
8 SOME OF THE TESTIMONY WE HEARD, THAT MAY BE A WAY
9 TO DEAL WITH IT.

10 MEMBER EATON: I THINK PERHAPS ONE OF THE
11 QUESTIONS THAT WERE RAISED IS NOT SO MUCH--AND I
12 WOULD AGREE WITH MY COLLEAGUE, MR. JONES, NO TO
13 FOCUS ON A PARTICULAR-- ALAMEDA COUNTY AND/OR
14 ANYONE ELSE, BUT IF WE HAD THESE OTHER
15 JURISDICTIONS OUT THERE --
16 I THINK THE ISSUE FOR THE BOARD IN
17 ONE CONTEXT IS WHETHER OR NOT WHEN WE RECEIVE
18 THESE IN THE PLANNING DEPARTMENT OF MS. FRIEDMAN
19 OR NOT, DO WE NEED TO TAKE A CLOSER LOOK, BECAUSE
20 SHE'S LOOKING AT THEM IN A WAY THAT CONFORMS WITH
21 OUR VIEW OF A CERTAIN SEGMENT. AND IF NOT, THEN
22 WE MAY HAVE TO ASK THAT WE LOOK AND REVIEW THEM IN
23 ANOTHER CONTEXT, WHICH WE'RE NOT DOING BECAUSE
24 WE'VE NEVER HAD THIS ISSUE BEFORE. IT'S NOT
25 ANYTHING THEY'RE DOING INCORRECTLY OR ANYTHING,

1 BUT MAYBE WE NEED TO SCRUTINIZE THEM IN A
2 DIFFERENT MANNER TO SEE.
3 BECAUSE WE'RE JUST LOOKING AT THEM
4 FOR THE CONFORMANCE ISSUES THAT YOU KIND OF
5 RAISED. AND IF THERE'S THESE OTHER THINGS, MAYBE
6 THEN SHE HAS TO KIND OF INSTRUCT HER PERSONNEL
7 UNDER HER DIRECTION TO LOOK AT THEM. AND I THINK
8 IN THAT GENERAL CONTEXT, AND THESE OTHER COUNTIES
9 MAY PROVIDE SOME OF THAT. BECAUSE WE'VE LOOKED AT
10 THEM IN A MUCH MORE, I THINK, KIND OF -- NOT IN A
11 CURSORY MANNER, BUT CURSORY IN THE SENSE OF DO
12 THEY MEET THOSE CERTAIN ELEMENTS THAT YOU HAD
13 PRESENTED?

14 MR. BLOCK: THAT HELPS. THAT HELPS. I
15 WAS JUST TRYING TO GET A SENSE OF SCOPE HERE.

16 CHAIRMAN PENNINGTON: MR. CHANDLER, DID
17 YOU--

18 MR. CHANDLER: WELL, I JUST WOULD THEN
19 OFFER -- AND I THINK WE'RE ALL PRETTY MUCH COMING
20 TO THE SAME CONCLUSION.

21 MAYBE FOR MR. JONES, IF YOU WOULD
22 LOOK AT THE FIRST TWO BULLETS THAT WE PUT IN THE
23 AGENDA ITEM THAT SERVED AS GUIDANCE, I SEE THE
24 FIRST TWO AS GETTING TO THE HEART OF AT LEAST A
25 GOOD PLACE TO DELVE FURTHER. CAN LOCAL BODIES

1 ENFORCE A COUNTY-WIDE SITING ELEMENT, I GUESS IS
2 THE ENFORCEMENT QUESTION. AND IF THEY CAN, IS IT
3 APPEALABLE THROUGH THE AB 959 PROCESS?
4 AND NUMBER TWO, WHO IS AUTHORIZED TO
5 MAKE THOSE CONFORMANCE FINDINGS? THAT GETS THE
6 LEA IS SUE AND WHETHER OR NOT THEY ARE BEING
7 OVERRIDDEN OR AS A SUBSTITUTE BY THE AUTHORITY.
8 SO WE'LL START THERE, INCORPORATING
9 THE ADDITIONAL GUIDANCE WE JUST RECEIVED, AND
10 BRING IT BACK KIND OF IN AN INCREMENTAL BASIS,
11 USING THOSE TWO QUESTIONS AS OUR FIRST START.

12 MEMBER JONES: YEAH, I
13 DON'T THINK THERE'S ANY QUESTION. WHEN I LOOKED
14 AT CAN A LOCAL BODY ENFORCE A COUNTY-WIDE ELEMENT,
15 WHAT I WAS LOOKING AT WAS WHAT MR. MOHAJER BROUGHT
16 UP, AND OTHERS, IS THIS GOING TO BE A NEW
17 LANDFILL. YOU KNOW, IS THIS A NEW FACILITY, OR
18 ARE YOU EXPANDING A FACILITY? THAT'S THE CONTEXT
19 WE ALWAYS, I THINK, LOOKED AT.
20 AND NOW WE'RE HEARING OTHER THINGS
21 THAT SAY -- THAT HAVE -- YOU KNOW, GO PAST THAT,
22 WHICH WE'VE ALL HEARD. THAT'S AN ISSUE OF WHAT'S
23 THE PROPER TREATMENT. BECAUSE THEY DEFINITELY CAN
24 ENFORCE THE LANDFILL ISSUE AND THE EXPANSION.
25 THERE IS NO QUESTION. IT'S NOT ONE I WANT TO

1 SPEND A WHOLE LOT OF TIME ON, BUT ALL OF US

2 THOUGHT THAT'S WHERE IT ENDED.

3 CHAIRMAN PENNINGTON: OKAY. ARE WE THROUGH WITH
4 THAT NOW?

5 MEMBER JONES: YES. THANKS, MR. CHAIRMAN. I
6 APPRECIATE THAT.

7 CHAIRMAN PENNINGTON: OKAY. MOVING ON TO
8 ITEM NO. 7, CONSIDERATION OF APPROVAL TO FORMALLY
9 NOTICE FOR A 45-DAY PUBLIC COMMENT PERIOD PROPOSED
10 REGULATORY CHANGES TO PROCEDURES FOR PREPARING AND
11 REVISING CITY, REGIONAL AGENCY, AND COUNTY SOURCE
12 REDUCTION AND RECYCLING ELEMENTS, AND NON-DISPOSAL
13 FACILITY ELEMENTS. JUDY FRIEDMAN.

14 AGENDA ITEM 7:

15 MS. FRIEDMAN: GOOD AFTERNOON CHAIRMAN
16 PENNINGTON, BOARD MEMBERS. DIANE RANGE AND CATHY
17 DONAHUE WITH THE BOARD'S WASTE ANALYSIS BRANCH
18 WILL BE MAKING THE PRESENTATION FOR STAFF.

19 MS. RANGE: GOOD AFTERNOON, CHAIRMAN
20 PENNINGTON AND BOARD MEMBERS.

21 AGENDA ITEM 7 IS THE PROPOSED REVISED
22 REGULATIONS FOR DEFINING RURAL JURISDICTION.

23 THESE REGULATIONS ARE BEING PRESENTED TO THE BOARD
24 TODAY TO OPEN THE FORMAL 45-DAY REVIEW AND COMMENT
25 PERIOD AS REQUIRED BY THE OFFICE OF ADMINISTRATIVE

1 LAW.
2 ASSEMBLY BILL 688, WHICH WAS PASSED A
3 FEW YEARS AGO, ALLOWED RURAL JURISDICTIONS TO
4 REQUEST A TWO-YEAR TIME EXTENSION TO MEETING THE
5 GOALS AND CHANGED THE DEFINITION OF WHAT
6 CONSTITUTES “RURAL.”
7 RURAL CITY IS PRETTY EXPLICIT IN
8 STATUTE BUT THE RURAL COUNTY IS NOT AS CLEARLY
9 DEFINED. SO REGULATIONS WERE DEVELOPED TO DEFINE
10 “RURAL COUNTY.” HOWEVER, FROM JURISDICTIONS’
11 EXPERIENCES, IT BECAME APPARENT THAT FURTHER
12 DEVELOPMENT OF THE RURAL DEFINITION CRITERIA WAS
13 NEEDED. SO REVISIONS TO THESE REGULATIONS HAVE
14 BEEN DEVELOPED AND HAVE UNDERGONE INFORMAL REVIEW
15 AND COMMENT.
16 THEY WERE ALSO PRESENTED AT THE RCRC
17 CONFERENCE IN SEPTEMBER. AND COMMENTS WE RECEIVED
18 ON THE REGULATIONS DURING THIS INFORMAL PERIOD
19 HAVE BEEN INCORPORATED INTO THE PROPOSED
20 REGULATIONS YOU HAVE BEFORE YOU TODAY.
21 THE REVISED REGULATIONS HAVE BEEN
22 WELL RECEIVED BY RURAL COUNTIES AND MANY HAVE
23 INDICATED THEIR SUPPORT FOR THESE REGULATIONS AND
24 HAVE EXPRESSED HOW HAPPY THEY ARE WITH THEM.
25 AND SO I’D LIKE TO TURN IT OVER NOW

1 TO CATHERINE DONAHUE, WHO WILL GIVE A BRIEF
2 OVERVIEW OF THE REGULATIONS.
3 MS. DONAHUE: GOOD AFTERNOON CHAIRMAN
4 PENNINGTON AND BOARD MEMBERS.
5 I'LL GIVE A BRIEF OVERVIEW OF THE
6 CHANGES IN THE RURAL DEFINITION. BUT BEFORE I
7 BEGIN, YOU'VE BEEN GIVEN A HANDOUT, AND THERE ARE
8 COPIES ON THE BACK TABLE, THAT LIST THE COUNTIES
9 THAT MAY POTENTIALLY REQUEST TO BE CONSIDERED
10 RURAL. THIS LIST ALSO NOTES THOSE COUNTIES THAT
11 DO NOT QUALIFY UNDER THE PROPOSED REGULATIONS.
12 REGIONAL AGENCIES THAT MAY QUALIFY AS RURAL ARE
13 NOT INCLUDED ON THIS LIST.
14 QUALIFYING AS RURAL DOES NOT
15 GUARANTEE A JURISDICTION ANY OF THE RURAL
16 ALLOWANCES. THESE ARE CONSIDERED BY THE BOARD ON A
17 CASE-BY-CASE BASIS.
18 EXISTING REGULATION DEFINES RURAL IN
19 SECTION 18775. THIS SECTION CONTAINS THE
20 REQUIRED INFORMATION A RURAL JURISDICTION JUST
21 PROVIDE TO BE CONSIDERED FOR A REDUCTION IN
22 DIVERSION AND/OR PLANNING REQUIREMENTS. FOR
23 CLARITY, THE REQUIREMENTS FOR DEFINING RURAL ARE
24 BEING MOVED INTO A SEPARATE REGULATION SECTION.
25 AS DIANE MENTIONED, THE REQUIREMENTS

1 FOR THE CITY HAVE NOT CHANGED. AND THE CHANGE FOR
2 A COUNTY TO BE CONSIDERED RURAL IS THAT IT HAS A
3 CURRENT WASTE DISPOSAL RATE OF 150 TONS PER DAY OR
4 LESS.

5 CURRENT REGULATIONS REQUIRE THAT THE
6 COUNTY'S WASTE GENERATE RATE WAS 100 CUBIC YARDS
7 OR 60 TONS PER DAY OR LESS, WHICH IS THE SAME AS
8 FOR A CITY. AND THIS WAS VERY DIFFICULT FOR MANY
9 COUNTIES TO MEET, ESPECIALLY FOR THOSE WITH A
10 POPULATION APPROACHING 200,000.

11 PROPOSED REGULATIONS ALSO CHANGE
12 REQUIREMENTS FROM GENERATION TO DISPOSAL TO BE
13 CONSISTENT WITH CURRENT TRACKING METHODS AND ALSO
14 INCREASE THE TONNAGE LIMIT. 150 TONS PER DAY WAS
15 FOUND TO BE A NATURAL BREAK BETWEEN RURAL AND
16 URBAN COUNTIES.

17 ALSO FOR A JURISDICTION TO BE RURAL,
18 IT MUST BE LOCATED IN A RURAL AREA. A RURAL AREA
19 CONSISTS OF TWO CRITERIA: BEING LOCATED EITHER IN
20 AN AGRICULTURAL OR MOUNTAINOUS AREA, AND DISTANT
21 FROM MARKETS.

22 THE REGULATIONS PROVIDE THAT FOR A
23 JURISDICTION TO BE IN AN AGRICULTURAL AREA, IT MUST
24 DEMONSTRATE THAT A SIGNIFICANT AMOUNT OF
25 AGRICULTURAL ACTIVITY AND PRODUCTION OCCUR AROUND

1 IT.
2 IF THE CITY OR COUNTY DECIDES THAT
3 IT'S MOUNTAINOUS INSTEAD OF AGRICULTURAL, THEY MUST
4 PROVIDE DOCUMENTATION THAT IT IS LOCATED IN A
5 MOUNTAINOUS AREA.
6 TO BE DISTANT FROM MARKETS, WE
7 DECIDED TO USE PRIMARY METROPOLITAN STATISTICAL
8 AREAS AS IDENTIFIED BY THE DEPARTMENT OF FINANCE.
9 AND WE USED THE PMSA'S BECAUSE THEY CONTAIN CITIES
10 WITH A LARGE ENOUGH POPULATION TO SUPPORT MANY
11 TYPES OF BUSINESSES THAT PRODUCE AN ADEQUATE
12 SUPPLY OF RECYCLABLE MATERIALS THAT WILL, IN TURN,
13 SUPPORT VIABLE MARKETS FOR MANY MATERIALS.
14 THE PROPOSED REGULATIONS DID NOT
15 CHANGE THE REQUIREMENTS FOR A RURAL REGIONAL
16 AGENCY.
17 AND THEN, BASED ON COMMENTS RECEIVED
18 IN THE INFORMAL COMMENT PERIOD, TWO SUBSECTIONS
19 HAVE BEEN ADDED THAT ALLOW FOR JURISDICTIONS THAT
20 DO NOT MEET ALL THE RURAL CRITERIA. JURISDICTIONS
21 THAT USE EITHER ONE OF THESE TWO SECTIONS WILL
22 NEED TO HAVE COMPELLING REASONS AS TO WHY THEY
23 SHOULD BE DEEMED RURAL.
24 THE CHANGES IN THE REMAINING SECTIONS
25 OF THIS REGULATION PACKET EITHER DELETED THE RURAL

1 QUALIFICATIONS IN 18775 OR ADDED REFERENCE TO THE

2 NEW RURAL DEFINITION SECTION OR MADE THE

3 REGULATIONS CONSISTENT WITH STATUTE.

4 THIS CONCLUDES MY PRESENTATION. I'LL

5 BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.

6 CHAIRMAN PENNINGTON: QUESTIONS?

7 MEMBER RHOADS: I HAVE A QUESTION.

8 CHAIRMAN PENNINGTON: MR. RHOADS.

9 MEMBER RHOADS: THIS IS JUST CURIOSITY. TULARE

10 COUNTY I NOTICE IS NOT ON THE LIST. DO YOU KNOW WHY

11 THEY'RE NOT A RURAL COUNTY?

12 MS. DONAHUE: I THINK THEIR POPULATION IS

13 OVER 200,000.

14 CHAIRMAN PENNINGTON: ANY OTHER QUESTIONS

15 OF STAFF?

16 MEMBER JONES: MR. CHAIRMAN?

17 CHAIRMAN PENNINGTON: YES, MR. JONES.

18 MEMBER JONES: I THINK I'D LIKE TO MAKE A

19 MOTION THAT WE FORMALLY APPROVE THE 45-DAY NOTICE.

20 CHAIRMAN PENNINGTON: OKAY. ANYBODY WANT

21 TO SECOND?

22 MEMBER FRAZEE: I'LL SECOND THAT.

23 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY

24 MR. JONES, SECONDED BY MR. FRAZEE.

25 IF THERE'S NO FURTHER DISCUSSION,

1 WILL THE SECRETARY CALL THE ROLL PLEASE?

2 THE SECRETARY: BOARD MEMBER CHESBOROUGH,

3 ABSENT.

4 BOARD MEMBER EATON?

5 MEMBER EATON: AYE.

6 THE SECRETARY: FRAZEE?

7 MEMBER FRAZEE: AYE.

8 THE SECRETARY: JONES?

9 MEMBER JONES: AYE.

10 THE SECRETARY: RHOADS?

11 MEMBER RHOADS: AYE.

12 THE SECRETARY: CHAIRMAN PENNINGTON?

13 CHAIRMAN PENNINGTON: AYE.

14 THE MOTION CARRIES.

15 WE'LL MOVE TO ITEM NO. 8,

16 CONSIDERATION OF STAFF RECOMMENDATION TO CORRECT

17 THE BASE-YEAR GENERATION AMOUNT FOR THE PREVIOUSLY

18 APPROVED SOURCE REDUCTION AND RECYCLING ELEMENT

19 FOR UNINCORPORATED LOS ANGELES COUNTY. JUDY

20 FRIEDMAN.

21 AGENDA ITEM 8:

22 MS. FRIEDMAN: GOOD AFTERNOON AGAIN,

23 BOARD MEMBERS. CHRIS SCHMIDLE WITH THE OFFICE OF

24 LOCAL ASSISTANCE WILL BE MAKING THE PRESENTATION

25 FOR STAFF.

1 MR. SCHMIDLE: GOOD AFTERNOON, MR.
2 CHAIRMAN, BOARD MEMBERS.
3 IN CALCULATING A JURISDICTIONS
4 PROGRESS TO REACHING THE 50 PERCENT WASTE
5 REDUCTION GOAL, THE BOARD USES A DISPOSAL-BASED
6 MEASUREMENT SYSTEM REFERENCED TO A BASE-YEAR.
7 NOW, HISTORICALLY, THERE'S BEEN BASE-YEAR
8 GENERATION MEASUREMENT PROBLEMS IN MANY
9 JURISDICTIONS.
10 BUT L.A. COUNTY UNINCORPORATED IS
11 AND THE WHOLE L.A. AREA IS SORT OF LIKE THE
12 SAME PROBLEM IN SPADES. THERE'S 90 JURISDICTIONS,
13 20 LANDFILLS. AND TRYING TO DIRECT WASTE FROM ANY
14 ONE JURISDICTION TO ALL THESE DIFFERENT LANDFILLS
15 CAN BE A REAL CHALLENGE.
16 IN 1994, THE BOARD APPROVED LOS
17 ANGELES UNINCORPORATED AREAS' SHREE, BUT DURING
18 THE PROCESS OF THE DEVELOPMENT OF OUR ADJUSTMENT
19 METHOD, IN 1995 AND 1996, FURTHER RESEARCH WAS
20 DONE IN THAT AREA WHICH UNCOVERED SOME MEASUREMENT
21 PROBLEMS. THE BOARD DIRECTED STAFF TO WORK WITH
22 L.A. AND OTHER JURISDICTIONS TO TRY TO FIND FIXES
23 TO THEIR BASE-YEAR PROBLEMS.
24 IN MARCH OF 1997, WE BROUGHT BACK A
25 PROPOSAL TO THE BOARD WHICH YOU APPROVED ON A

1 NUMBER OF METHODS TO FIX JURISDICTIONS. HOWEVER,
2 WE WERE UNABLE AT THAT TIME TO DEVELOP A
3 CORRECTION METHOD SPECIFIC TO THE PROBLEMS OF L.A.
4 THE BOARD AT THAT TIME DIRECTED US TO GO BACK AND
5 WORK -- TO CONTINUE TO WORK WITH LOS ANGELES, AND
6 THAT BRINGS US UP TO TODAY.
7 THERE ARE TWO ISSUES. THE FIRST IS
8 TRYING TO ESTIMATE THE AMOUNT OF TONNAGE THAT IS
9 MISSING OUT OF THE L.A. NUMBERS. AND THEN
10 SECONDLY, ESTIMATING L.A. UNINCORPORATED'S FAIR
11 SHARE OF THAT MISSING TONNAGE.
12 BOARD STAFF WENT BACK TO OUR
13 DATABASES AND TOOK A LOOK AT THE AMOUNT OF BOARD
14 OF EQUALIZATION FEES PAID, DATA FROM OUR DISPOSAL
15 REPORTING SYSTEM, INFORMATION FROM L.A. AND
16 TRANSFORMATION, AND OTHER SOURCES. AND WE
17 CALCULATED THAT A GOOD AVERAGE ESTIMATE IS THAT
18 THERE ARE 14.8 MILLION TONS GENERATED IN LOS
19 ANGELES DURING THEIR BASE-YEAR.
20 IF WE TAKE THE SUM OF ALL OF THE
21 JURISDICTIONS OF ALL THE SHREES, THE DATA THAT
22 WAS IN ALL THE SHREES IN LOS ANGELES AND ADD THEM
23 ALL UP WE GET 11 MILLION TONS, LEAVING AN
24 UNDERCOUNT OF 3.8 MILLION TONS.
25 SO THE NEXT QUESTION IS, HOW CAN WE

1 FAIRLY ALLOCATE THAT TO THE COUNTY OF LOS ANGELES
2 UNINCORPORATED?
3 THE ADJUSTMENT METHOD THAT WE
4 DEVELOPED IN '95-96 USED THREE FACTORS, AND WE
5 USED THOSE FACTORS BECAUSE WE FOUND THAT THEY HAD
6 A CLOSE CORRELATION TO WASTE GENERATION, AND THOSE
7 WERE POPULATION, EMPLOYMENT, AND TAXABLE SALES.
8 SO BOARD STAFF RECOMMENDED TO L.A. THAT THEY USE A
9 COMBINATION OF THOSE FACTORS IN DETERMINING THEIR
10 SHARE OF THE WASTE.
11 NOW, FOR REASONS OF THEIR OWN, THE
12 CITY OF LOS ANGELES WANTED TO TAKE A CONSERVATIVE
13 TACK TO THIS PROBLEM. AND THEY WANTED TO USE A
14 SINGLE FACTOR THAT OF TAXABLE SALES AND OF THE
15 THREE FACTORS THAT IS THE SMALLEST OF THEM. AND
16 CALCULATING THAT OUT, WE GOT 171,000 ADDITIONAL
17 TONS. AND THAT'S THEIR SHARE OF THE UNALLOCATED
18 TONNAGE THAT WE FOUND IN OUR STUDY.
19 ADDING THAT 171,000 TONS TO THEIR
20 EXISTING TONNAGE WOULD INCREASE -- GIVE THEM A
21 REVISED DIVERSION RATE. THEIR OLD RATE, IN '95,
22 WAS 16 PERCENT, AS PREVIOUSLY APPROVED. THE NEW
23 RATE WOULD BE 27 PERCENT, IN THE YEAR 2000. THE
24 OLD RATE WAS 18 PERCENT, AND THAT WOULD BRING IT
25 UP TO 29 PERCENT.

1 SO BASICALLY, WHAT WE'RE ASKING YOU

2 TO DO TODAY IS TO APPROVE THESE CORRECTIONS FOR

3 L.A.

4 AND IF YOU HAVE ANY QUESTIONS, I'D BE

5 HAPPY TO ANSWER THEM AT THIS TIME. AND ALSO MR.

6 MOHAJER FROM L.A. COUNTY IS HERE IN THE AUDIENCE,

7 AND HE'S ALSO AVAILABLE TO YOU.

8 CHAIRMAN PENNINGTON: MR. JONES.

9 MEMBER JONES: YEAH. THE SAND DISTRICT AT SOME

10 POINT -- I THINK WHEN THEY WERE WORKING WITH ALL

11 THE CITIES AND COUNTIES -- CAME UP WHERE THEY

12 THOUGHT THERE WAS ABOUT FIVE MILLION TONS THAT

13 WERE UNALLOCATED. WAS THAT A NUMBER --

14 MR. SCHMIDLE: RIGHT. WELL, THERE --

15 MEMBER JONES: AND I'M NOT SAYING -- I'M

16 NOT GOING TO ASK YOU IF THAT'S THE RIGHT NUMBER.

17 OKAY. WHAT I'M TRYING TO SAY IS THAT WHEN ALL OF

18 THAT WORK WAS DONE, AS THEY STARTED ACCUMULATING

19 THE SRRE'S, THEY FOUND THAT THERE WAS LIKE FIVE

20 MILLION TONS THAT HAD BEEN UNDERSTATED --

21 MR. SCHMIDLE: YES.

22 MEMBER JONES: -- AND THEY WERE TRYING TO

23 DEAL WITH THAT.

24 THE 3.8 MILLION IS THE -- SINCE THIS

25 IS A MATHEMATICAL GUESSING GAME FOR -- I MEAN, YOU

1 MAKE AS EDUCATED AN ESTIMATE AS YOU CAN -- THIS IS
2 ONE THAT EVERYBODY IS COMFORTABLE WITH, THIS 3.8?

3 MR. SCHMIDLE: I BELIEVE SO. IN ANY
4 CASE, AS I SAID BEFORE, THIS CAN'T BE PERFECT.
5 THIS IS AN ESTIMATE.

6 MEMBER JONES: RIGHT.

7 MR. SCHMIDLE: BOTH THE BOARD AND L.A.
8 FEEL THAT THIS IS A PRETTY GOOD COMPROMISE.

9 MEMBER JONES: BECAUSE WE'RE GOING TO
10 HAVE REQUESTS, I KNOW, FROM -- AND WE'VE TALKED
11 ABOUT IT IN OUR BRIEFING. WE'RE GOING TO HAVE
12 REQUESTS FROM OTHER CITIES THAT HAD
13 UNDERESTIMATED.

14 IN FACT, THIS IS A GOOD ITEM BECAUSE
15 WE HAVE HAD CONSULTANTS UP HERE TALKING TO US,
16 ACCUSING US OF -- THAT THESE NUMBERS ARE OUR FAULT
17 WHEN, IN FACT, WE DID NOT CREATE ANY OF THESE
18 NUMBERS. WE SIMPLY WERE THE RECEIVERS OF THE
19 DOCUMENT THAT SOME OF THOSE CONSULTANTS GOT PAID A
20 LOT OF MONEY TO GENERATE.

21 SO I'M WONDERING -- I'M HOPING THAT
22 IF WE APPROVE THIS, THAT THAT 3.8 MILLION-TON
23 NUMBER SITS AT THE TOP OF A COLUMN. AND WE
24 SUBTRACT 171,000 TONS FOR L.A. UNINCORPORATED --

25 MR. SCHMIDLE: UH-HUH.

1 MEMBER JONES: -- LEAVING A REMAINDER.

2 AND AS CITIES COME IN AND CAN JUSTIFY

3 THAT THEIR BASE-YEAR NUMBERS HAD BEEN UNDERSTATED,

4 THAT WOULD BE THE POOL SO THAT, IN FACT, WE DON'T

5 GIVE NUMBERS. WE DON'T ADJUST BASE-YEARS IN

6 EXCESS OF 3.8 MILLION TONS --

7 MR. SCHMIDLE: UH-HUH.

8 MEMBER JONES: -- COUNTY-WIDE, SO THAT

9 WE'RE NOT DOING THIS AND END UP THAT WE'VE GIVEN

10 AWAY SIX MILLION TONS IN REVISED BASE-YEAR

11 NUMBERS. I MEAN, THERE HAS TO BE SOME

12 ACCOUNTABILITY. AND IF EVERYBODY AGREES TO 3.8

13 MILLION, THEN THAT'S THE ONE THAT'S GOT TO GO TO

14 THE TOP OF THE PAGE. V

15 AND I KNOW THAT THERE HAVE BEEN SOME

16 BASE-YEAR ADJUSTMENTS FOR SOME L.A. COUNTY

17 JURISDICTIONS ALREADY THAT WERE BASED ON ONE OF

18 THE FIVE METHODOLOGIES THAT HAVE BEEN APPROVED BY

19 THIS BOARD.

20 IS THERE A WAY THAT YOU CAN DO THE

21 MATH BACKWARDS AND FIGURE OUT THAT TONNAGE, AND

22 SUBTRACT THAT FROM THE 3.8 MILLION TONS?

23 MR. SCHMIDLE: YES, I BELIEVE THERE IS.

24 IF YOU APPROVE THIS METHOD, THIS WOULD BE AVAILABLE

25 TO OTHER JURISDICTIONS IN THE LOS ANGELES AREA,

1 SINCE IT'S A COMMON PROBLEM TO ALL OF THEM.

2 YOU'RE CORRECT IN THE SENSE THAT SOME

3 OF THEM HAVE COME FORWARD WITH THEIR OWN DATA AND

4 THEIR OWN METHODOLOGIES. THOSE WE'D HAVE TO LOOK

5 AT ON A CASE-BY-CASE BASIS AND SEE -- YOU KNOW,

6 MAKE SURE THERE'S NO DOUBLE COUNTING.

7 MEMBER JONES: RIGHT. EXACTLY. AND

8 THAT'S ALL I'M SAYING, IS IT HAS TO COME OUT OF

9 THIS 3.8 MILLION TONS.

10 MR. SCHMIDLE: RIGHT.

11 MEMBER JONES: IT CAN'T COME OUT OF

12 ANYWHERE ELSE.

13 AND THEN MY LAST THING, MR. CHAIRMAN,

14 WE RECEIVED -- AND I KNOW ALL THE BOARD MEMBERS

15 DID, AND PROBABLY EX PARTE'D IT QUITE A WHILE AGO

16 -- WE RECEIVED LETTERS FROM BEVERLY HILLS,

17 MAYWOOD, SAN MARINO, PALOS VERDES ESTATES,

18 CUDAHY, AND I THINK ONE OTHER, ALL ADDRESSED TO

19 OUR CHIEF DEPUTY, KEVIN SMITH.

20 MEMBER EATON: WE CAN SEE WHERE THEIR

21 FIGURES WERE WRONG.

22 MEMBER JONES: AND WE SHOULD GET HIM A

23 BIGGER NAME PLATE.

24 BUT THEY'VE ALL ASKED THAT WE FIX

25 THE NUMBERS. AND WHEN WE WERE AT OUR SB-1066

1 WORKSHOP, THE SAME QUESTION GOT ASKED, AND
2 UNFORTUNATELY I ANSWERED WHEN WE WALKED AWAY. AND
3 THE WOMAN WALKED
4 AWAY, AND I TALKED TO HER LATER, AND SHE WASN'T
5 HURT. SHE JUST SAID, "YOU GAVE ME THE ANSWER, SO I
6 WALKED AWAY." BUT ALTHOUGH I WAS A LITTLE
7 WORRIED AT THE TIME, I THOUGHT, WHOA.
8 BUT THIS IS NOT OUR PROBLEM. THESE
9 ARE NOT OUR NUMBERS. SO IF THE NUMBERS ARE SKEWED,
10 THEY NEED TO BE WORKING WITH L.A. COUNTY AND WITH
11 THE SAND DISTRICT AND WHATEVER THEIR MECHANISM IS
12 DOWN THERE TO BRING US WHAT THEIR NUMBER -- AND
13 I KNOW YOU'RE GOING TO ASSIST THEM. BUT THIS IS
14 NOT-- THE WASTEBOARD DID NOT CREATE THIS
15 PROBLEM. AND THE WASTE BOARD IS HERE TO HELP, BUT
16 WE CAN'T BE EXPECTED --
17 OR I THINK WE NEED TO RESPOND TO
18 THESE PEOPLE THAT THIS IS A LOCAL IS SUE. MIKE
19 MOHAJER GETS TO DEAL WITH ALL THOSE GUYS AND MAKE
20 SURE THAT THEY UNDERSTAND. AND THEY'VE GOT TO --
21 YOU KNOW, GOT TO DO IT LIKE THAT. I JUST THINK
22 IT'S IMPORTANT THAT THIS --
23 CHAIRMAN PENNINGTON: ABSOLUTELY.
24 MEMBER JONES: -- YOU KNOW, WE KEEP READING
25 ARTICLES WRITTEN BY SOME OF THOSE SAME CONSULTANTS

1 THAT THIS IS A WASTE BOARD PROBLEM, AND IT'S NOT. I
2 MEAN, WE'LL BE PART OF THE SOLUTION, BUT THEY'VE
3 GOT TO PUT THE NUMBERS TOGETHER. THEY'RE THEIR
4 NUMBERS NOT OURS.

5 CHAIRMAN PENNINGTON: MS. FRIEDMAN.

6 MS. FRIEDMAN: MR. CHAIRMAN, BOARD
7 MEMBERS, I WOULD ALSO LIKE TO ADD A COUPLE CITIES
8 TO THAT LIST THAT YOU HAVE INDICATED. WE HAD MALIBU --
9 I'M NOT SURE IF YOU CAUGHT THEM, AND CULVER CITY AS
10 WELL THAT WERE IN THAT PACKAGE. SO I THOUGHT I'D JUST
11 ADD THOSE, NUMBER ONE.

12 AND NUMBER TWO, WE'RE PREPARING
13 RESPONSES TO ALL THOSE CITIES ALONG THE LINES OF
14 WHAT YOU HAVE INDICATED, AND I JUST WANTED TO ADD
15 THAT FOR THE RECORD.

16 MEMBER JONES: I THINK
17 THAT'S THE INTENT OF THE BOARD -- I MEAN, NOT THE
18 INTENT BUT THAT'S --

19 CHAIRMAN PENNINGTON: FINE. MR. EATON.

20 MEMBER EATON: I JUST WOULD FOLLOW UP ON
21 MR. JONES' -- BECAUSE IT'S FUNNY, BECAUSE IN MY
22 BRIEFING, TOO, I WAS CONCERNED ABOUT THE FACT THAT
23 IF WE HAVE A CERTAIN FINITE NUMBER, IN THIS CASE
24 3.8, AND THAT'S REALLY WHAT WE'RE TALKING ABOUT.
25 THAT UNDER ANY FORMULA, THEN, IF SOMEONE WHO COMES

1 IN AT THE BEGINNING GOBBLES UP 30 PERCENT OF THE
2 REMAINING AFTER THE 171 AND THAT GAME PLAYS, I
3 WANTED TO MAKE SURE THAT THAT FORMULA'S NOT THERE.
4 SO TODAY I GUESS, ARE WE -- I KNOW
5 THE RESOLUTION DEALS WITH THE FORMULA AS IT
6 RELATES TO THE UNINCORPORATED AREA OF LOS ANGELES.
7 ARE WE ALSO MAKING A STATEMENT THAT THE 3.8 IS THE
8 FIGURE THAT WE'RE -- THAT'S IT, AND THAT THIS IS
9 THE ONLY FORMULA THEY CAN USE? SO WHENEVER THOSE
10 JURISDICTIONS COME IN, WHETHER THEY'RE FIRST OR
11 EIGHTEENTH, THEY HAVE TO USE THIS FORMULA.

12 MS. FRIEDMAN: MR. CHAIR,
13 3.8 MILLION IS THE TOTAL TONNAGE
14 THAT WE'RE LOOKING TO SUBTRACT SUBSEQUENT FROM,
15 BUT CURRENTLY THERE'S NO RESTRICTION.
16 I MEAN, THAT'S A CONSIDERATION FOR
17 THE BOARD. THE BOARD'S POLICY ON BASE-YEAR
18 ADJUSTMENTS HAS SEVERAL OPTIONS. THIS IS A NEW
19 OPTION THAT CAN BE ADDED TO IT. WE WOULD SIMPLY
20 CONTINUE TO -- WHATEVER METHODOLOGY WAS USED WE
21 WOULD STILL SUBTRACT FROM THE 3.8 MILLION.

22 MEMBER EATON: SO ARE WE PLAYING SOME
23 KIND OF WAR GAMES TO SEE IF UNDER ANY ONE OF THE
24 FORMULAS, IF SOMEONE DOES GOBBLE UP A LION'S SHARE?
25 AND THERE'S NOT THAT LEFT.

1 BECAUSE I THINK WHAT WILL HAPPEN, AND
2 THAT'S -- YOU KNOW, OUR FEAR IS THAT -- LET ME
3 JUST ASK A -- AFTER THE UNINCORPORATED AREA, THEN
4 WILL EACH OF THE CITIES WITHIN L.A. COUNTY THEN
5 COME IN INDIVIDUALLY, OR IS THERE A GROUPING SUCH
6 AS THE UNINCORPORATED AREA THAT WE WILL BE DEALING
7 WITH AS A TIERED SYSTEM?

8 MR. SCHIAVO: PAT SCHIAVO OF THE OFFICE
9 OF LOCAL ASSISTANCE.
10 THERE ARE A LOT OF DIFFERENT
11 METHODOLOGIES JURISDICTIONS CAN USE, AND IT
12 DEPENDS ON WHAT THE ISSUE IS WHETHER OR NOT THEY
13 CAN USE THE 3.8 MILLION.
14 3.8 MILLION IS JUST ONE
15 ISSUE DEALING WITH SOME OF THE BASE-YEAR PROBLEMS,
16 AND MAINLY THE SELF-HAUL AND THE PORTION THAT WENT
17 TO UNPERMITTED FACILITIES THAT WE WERE ABLE TO
18 FIGURE OUT COLLECTIVELY.
19 TO DATE, WE'VE HAD ABOUT A DOZEN L.A.
20 JURISDICTIONS COME FORWARD. WE HAVE THOSE
21 IDENTIFIED, SO WE CAN GO BACK AND TRY TO APPLY
22 WHATEVER THEY DID AGAINST THAT 3.8 MILLION IF THEY
23 HAVE IDENTIFIED THE SAME WASTE STREAM. BUT THERE
24 ARE SEVERAL OTHER IS SUES RELATED TO IT.
25 BUT THE INTENT THAT WE HAVE IS, YEAH,

1 WE HAVE THIS POOL OF TONS. AND AS PEOPLE COME IN,
2 IT'S GOING TO -- THEY'RE GOING TO HAVE-- IF THEY
3 USE THAT FORMULA, WE SUBTRACT OFF. IF THEY USE A
4 DIFFERENT METHODOLOGY, IF THEY'RE IDENTIFYING
5 SELF-HAUL, WE'LL STILL SUBTRACT THAT AMOUNT OFF AS
6 WELL.

7 MEMBER EATON: OFF THE 3.8?

8 MR. SCHIAVO: YEAH.

9 MEMBER EATON: OKAY. BUT THEN EACH INDIVIDUAL
10 CITY FROM NOW ON -- THE ONLY GROUPING IS THE
11 UNINCORPORATED AREA. CORRECT? THAT'S --

12 MR. SCHIAVO: AT THIS POINT, RIGHT.

13 MEMBER EATON: AT THIS POINT?

14 MR. SCHIAVO: YEAH.

15 MEMBER EATON: THEN THE INDIVIDUAL
16 JURISDICTIONS HAVE TO COME IN?

17 MR. SCHIAVO: RIGHT.

18 CHAIRMAN PENNINGTON: OKAY. VERY GOOD.

19 MEMBER JONES: MR. CHAIRMAN?

20 CHAIRMAN PENNINGTON: YES, MR. JONES.

21 MEMBER JONES: I DO WANT TO SAY BEFORE I
22 MAKE THE MOTION THAT L.A. COUNTY UNINCORPORATED
23 HAD AN OPPORTUNITY TO USE ONE OF THREE DIFFERENT
24 METHODOLOGIES AND TOOK THE MOST CONSERVATIVE
25 USING -- ACTUALLY ALLOCATING THEMSELVES THE LEAST

1 AMOUNT OF TONNAGE THEY COULD HAVE UNDER THAT
2 FORMULA. AND I THINK THAT SAYS A LOT TO GETTING TO
3 THE SOLUTION OF THIS PROBLEM.
4 SO WITH THAT, I WANT TO MAKE A
5 MOTION -- UNLESS MR. MOHAJER WANTS TO -- DO YOU
6 WANT TO HEAR THE VOTE, OR DO YOU WANT TO MAKE THE
7 SPEECH?

8 MEMBER EATON: I ASSUME THIS IS THE AREA
9 OUT BY ANTELOPE WHERE THAT TIRE PILE OR THAT
10 ABANDONED SITE IS, ISN'T IT?

11 MR. MOHAJER: THEY CHASED ME OUT OF THAT ONE.

12 MEMBER JONES: MR. CHAIRMAN, I'LL MAKE A
13 MOTION TO ADOPT RESOLUTION 98-279, THE APPROVAL TO
14 CORRECT THE PREVIOUSLY APPROVED SOURCE REDUCTION
15 RECYCLING ELEMENT FOR THE UNINCORPORATED LOS
16 ANGELES COUNTY.

17 CHAIRMAN PENNINGTON: OKAY.

18 MEMBER EATON: I'LL SECOND THAT MOTION.

19 CHAIRMAN PENNINGTON: IT'S BEEN MOVED BY
20 MR. JONES AND SECONDED BY MR. EATON.

21 IF THERE'S NO FURTHER DISCUSSION,
22 WILL THE SECRETARY CALL THE ROLL?

23 THE SECRETARY: BOARD MEMBER CHESBOROUGH,
24 ABSENT.

25 BOARD MEMBER EATON?

1 MEMBER EATON: AYE.

2 THE SECRETARY: FRAZEE?

3 MEMBER FRAZEE: AYE.

4 THE SECRETARY: JONES?

5 MEMBER JONES: AYE.

6 THE SECRETARY: RHOADS?

7 MEMBER RHOADS: AYE.

8 THE SECRETARY: CHAIRMAN PENNINGTON?

9 CHAIRMAN PENNINGTON: AYE.

10 THE MOTION CARRIES.

11 MOVE TO ITEM NO. 9, CONSIDERATION OF

12 APPROVAL OF SCOPE 01 WORK FOR THE DEVELOPMENT OF

13 CASE STUDIES ON EXEMPLARY SOLID WASTE DIVERSION

14 PROGRAMS AND THE IMPLEMENTATION OF A STATEWIDE

15 VIDEO CONFERENCE TO INFORM AND DISTRIBUTE THE

16 MATERIALS DEVELOPED. JUDY.

17 AGENDA ITEM 9:

18 MS. FRIEDMAN: GOOD AFTERNOON, AGAIN.

19 TREVOR O'SHAUGHNESSY WITH THE OFFICE OF LOCAL

20 ASSISTANCE WILL BE MAKING THE PRESENTATION FOR

21 STAFF.

22 MR. O'SHAUGHNESSY: MY NAMES TREVOR

23 O'SHAUGHNESSY, IN THE OFFICE OF LOCAL ASSISTANCE.

24 AND I AM HERE TO PRESENT AN ITEM TO

25 CONSIDER A SCOPE OF WORK FOR THE DEVELOPMENT OF

1 CASE STUDIES AND THE IMPLEMENTATION OF A
2 STATEWIDE VIDEO CONFERENCE.
3 IN SUMMARY, THIS ITEM WILL INCLUDE
4 THE DEVELOPMENT OF A MAXIMUM OF 24 CASE STUDIES ON
5 EXEMPLARY SOLID WASTE DIVERSION PROGRAMS AND A
6 STATEWIDE VIDEO CONFERENCE TO INFORM AND
7 DISTRIBUTE THE MATERIALS DEVELOPED.
8 PREVIOUS BOARD ACTION INCLUDED
9 THE APPROVAL OF FIVE CONTRACT CONCEPTS FOR THE
10 TOTAL AMOUNT FUNDED UNDER THIS ITEM. THAT
11 INCLUDED THE DEVELOPMENT OF CASE STUDIES FOR
12 JURISDICTIONS, WORKSHOPS TO DISSEMINATE ASSISTANCE
13 TOOLS, STATEWIDE CONFERENCE, AND WASTE PREVENTION
14 AND RECYCLING, RELATIVE EFFECTIVENESS OF DIVERSION
15 PROGRAMS, AND THEN FINALLY, THE RECYCLED PRODUCT
16 PROCUREMENT CONFERENCE.
17 THE ORIGINAL FUNDING THAT WAS
18 REQUESTED INCLUDED THE ITEMS AS STATED THERE, BUT
19 ULTIMATE FUNDING WAS 225,000 FOR ALL ITEMS.
20 THE SCOPE OF WORK THAT HAS BEEN
21 INCLUDED IN YOUR PACKET INCLUDES SEVERAL ITEMS.
22 FIRST IS THE DEVELOPMENT OF CASE
23 STUDIES. THE CONTRACTOR UNDER THE SCOPE OF WORK
24 WOULD BE REQUIRED TO DEVELOP A SELECTION PROTOCOL,
25 DEVELOP 12 TO 24 CASE STUDIES IN ALL, PROVIDE A

1 CONSISTENT FORMAT FOR ALL COMPLETED WORK. THEY
2 WOULD ALSO BE REQUIRED TO HAVE A REGIONAL WORKSHOP
3 CONFERENCE THAT WILL SET UP AND TRANSMIT A VIDEO
4 CONFERENCE TO 10 SITES THROUGHOUT THE STATE OF
5 CALIFORNIA, EIGHT OF WHICH ARE SPECIFICALLY
6 SPELLED OUT IN THE SCOPE OF WORK. THE CONTRACTOR
7 WOULD SELECT THE LAST TWO.
8 THEY WOULD ALSO ASSIST BOARD STAFF IN
9 DOING AN AFTERNOON WORKSHOP SESSION, BUT BOARD
10 STAFF WOULD SPECIFICALLY FOCUS ON THE CONCEPTS AND
11 IDEAS THAT ARE NEEDED FOR SPECIFIC REGIONS
12 THROUGHOUT THE STATE OF CALIFORNIA. SO IF YOU'RE
13 IN REDDING, IN A RURAL AREA, YOU WOULD FOCUS ON
14 SPECIFIC ISSUES THAT DEAL WITH THEM. AND IF YOU'RE
15 IN A MORE URBAN AREA, LOS ANGELES OR THE BAY AREA,
16 YOU WOULD DEAL WITH ISSUES SPECIFICALLY THERE.
17 THE SCOPE OF WORK ALSO INCLUDES THAT
18 THE CONTRACTOR DEVELOP CONFERENCE ANNOUNCEMENTS
19 AND REGISTRATION MATERIALS, SECURE AND COORDINATE
20 ANY TALENT THAT'S REQUIRED, AND PREPARE A
21 TRAINING VIDEO -- AND THE TRAINING VIDEO IS
22 BASICALLY AN EDITING OF THE BROADCASTED ELEMENT --
23 AND THEN PUT INTO A FORMAT THAT WOULD BE USEFUL TO
24 ANY JURISDICTION THAT WAS NOT ABLE TO PARTICIPATE
25 IN THE WORKSHOPS.

1 THE DEVELOPMENT OF FINISHED PRODUCTS
2 INCLUDE A THOUSAND PRINTED COPIES OF EACH CASE
3 STUDY, AN ELECTRONIC MASTER FOR THE INTERNET SO
4 THAT ALL MATERIALS WOULD BE AVAILABLE, AND 50
5 COPIES OF THE TRAINING VIDEO THAT WE WOULD USE FOR
6 LOAN PURPOSES.
7 A TIME LINE THAT'S BEEN SKETCHED OUT
8 INCLUDES TO GAIN APPROVAL TODAY, TO THEN ADVERTISE
9 FOR SIX WEEKS FOR THE CONSULTANTS TO HAVE AN
10 OPPORTUNITY TO PREPARE THEIR PROPOSALS. STAFF
11 WILL THEN REVIEW THOSE PROPOSALS AND THEN COME
12 BACK TO THE BOARD AT THE JANUARY BOARD MEETING TO
13 GAIN APPROVAL OF THE SELECTED LOW BIDDER.
14 WE WOULD THEN CONTINUE THE PROCESS
15 THE GGS AND THE INTERNAL PROCESS,
16 WHICH IS APPROXIMATELY THREE WEEKS. THE
17 CONTRACTOR WOULD THEN BE ABLE TO BEGIN WORK IN
18 MARCH OF '99, FINISH UP THE CASE STUDIES IN JULY,
19 AND THEN HAVE A VIDEO CONFERENCE IN SEPTEMBER.
20 SO THE PROCESS IS ALREADY DEFINED
21 OUT, AND WE'RE HOPING TO GET A GOOD
22 RESOLUTION FOR TODAY'S ITEM SO THAT
23 WE CAN GO DOWN A PATH AND HAVE A SUCCESSFUL
24 CONFERENCE IN TIME AND BE USEFUL TO THE LOCAL
25 JURISDICTIONS.

1 THE OPTIONS FOR THE BOARD ARE TO
2 APPROVE THE SCOPE OF WORK, APPROVE THE SCOPE OF
3 WORK WITH MODIFICATIONS OR AMENDMENTS, OR
4 DISAPPROVE THE SCOPE OF WORK.
5 I WOULD LIKE TO ADD AT THIS POINT
6 THAT UPON FURTHER EVALUATION AND CONSIDERATION,
7 STAFF MADE TWO MINOR CHANGES TO THE SCOPE OF WORK.
8 AND THOSE WOULD BE FOUND UNDER TASK TWO, ITEM
9 "C, NUMBER TWO. AND THE NEW LANGUAGE WOULD READ
10 "A RANGE OF COSTS AND/OR SAVINGS ASSOCIATED WITH
11 THE ACTIVITY AND ASSOCIATED FACTORS."
12 AND THE OTHER CHANGE WOULD BE UNDER
13 ITEM "E" IN THAT SAME TASK, WHICH WOULD READ:
14 "A MAXIMUM OF 24 CASE STUDIES WILL BE
15 DEVELOPED UNDER THIS TASK, WITH BOARD
16 STAFF IDENTIFYING EIGHT CASE STUDIES THAT
17 MUST BE COMPLETED BY THE CONTRACTOR."
18 ALSO UNDER THE RESOLUTION THERE WAS
19 AN ERROR ON MY BEHALF, AND I FORGOT
20 TO ADD ONE POINT. AND UNDER THE PORTION OF THE
21 RESOLUTION THAT READS "NOW, THEREFORE, BE IT
22 RESOLVED," IT WOULD CONTINUE ON TO SAY,
23 "THE BOARD APPROVES THE SCOPE OF WORK TO
24 DEVELOP A MAXIMUM OF 24 CASE STUDIES WITH NO LESS
25 THAN 12 CASE STUDIES BEING COMPLETED," AND THE

1 REST OF IT WOULD STAY THE SAME.

2 ARE THERE ANY QUESTIONS?

3 CHAIRMAN PENNINGTON: OKAY. QUESTIONS? MR.
4 EATON.

5 MEMBER EATON: I JUST WANTED TO THANK THE
6 STAFF FOR LISTENING TO THE COMMENTS THAT WE HAD
7 WITH REGARD TO YOUR OWN CONFIDENCE LEVEL, BECAUSE
8 I THINK THAT YOU ARE THE ONES WHO CAN DICTATE TO
9 THE CONTRACTOR WHAT WE NEED. AND EVEN THOUGH HE
10 OR SHE MAY BE AN EXPERT IN THEIR FIELD, I THINK
11 YOU KNOW WHAT CALIFORNIA NEEDS.

12 AND SPECIFICALLY, WHAT VARIETY - - I
13 MEAN, OF WASTE STREAMS WE SHOULD BE LOOKING AT,
14 WHETHER IT BE C&D, ORGANICS. AND YOU'LL BE ABLE
15 TO MAKE THAT SELECTION BECAUSE -- AS WELL AS THE
16 URBAN, RURAL DIFFERENCE, THE GEOGRAPHICAL, AS WELL
17 AS THE ECONOMIC DIFFERENCE.

18 AND I THINK YOU SHOULD BE AWARE THAT
19 WHATEVER WE CAN DO TO PUSH ON THEM IS GOING TO BE
20 IMPORTANT, BECAUSE THESE ARE GOING TO BE THE CASE
21 STUDIES. I THINK THAT WE'RE GOING TO BE ABLE TO
22 DO OUR CORRECTIVE ACTIONS PLANS WITH. AND SO IF
23 WE HAVE THAT CALIFORNIA -- SPECIAL ATTENTION TO
24 CALIFORNIA PROBLEMS AND NOT SOMETHING THAT WAS
25 DONE IN ANOTHER STATE, ALTHOUGH IT MAY BE

1 RELEVANT -- THAT IF THEY WANT TO DO IT, THAT'S
2 FINE. BUT I THINK THAT YOU GUYS HAVE YOUR OWN
3 EXPERTISE, AND YOU KNOW WHAT CALIFORNIANS ARE GOING
4 TO NEED IN THOSE JURISDICTIONS. AND I APPRECIATE
5 IT.

6 MEMBER JONES: MR. CHAIRMAN?

7 CHAIRMAN PENNINGTON: MR. JONES.

8 MEMBER JONES: I WOULD LIKE TO JUST ADD
9 ONE COMMENT. I THINK THAT FEDERAL EPA HAS BEEN
10 SCREAMING FOR A LONG TIME THAT THEY DON'T HAVE
11 CASE STUDIES THAT THEY CAN DELIVER TO THE REST OF
12 THE NATION.

13 SO I THINK AT SOME POINT YOU START
14 THIS PROCESS WHICH YOU REALLY THINK -- AND I HAVE
15 A PHONE NUMBER OF SOMEBODY THAT YOU MAY WANT TO
16 TALK TO -- YOU MAY WANT TO THINK ABOUT SEEING IF
17 THEY WANT TO HELP FUND THIS THING AND TAKE IT TO
18 THE NEXT LEVEL. I MEAN, IT'S JUST AN IDEA I THOUGHT
19 ABOUT.

20 CHAIRMAN PENNINGTON: WE ALWAYS LIKE THAT
21 IDEA OF SOMEBODY ELSE DOING THE FUNDING.

22 MR. JONES: RIGHT.

23 CHAIRMAN PENNINGTON: ANY OTHER QUESTIONS? MR.
24 RHOADS.

25 MEMBER RHOADS: YEAH, THIS IS RELATED -- ALSO JUST

1 THROW SOMETHING OUT AND FOR
2 CONSIDERATION FOR THE BOARD MAYBE AT A LATER DATE.
3 IT OCCURRED TO ME WHEN I WAS BEING
4 BRIEFED ON THIS AND WAS LISTENING TO THE MATERIAL
5 BEFORE THAT THERE'S NO QUESTION THIS IS A VERY
6 WORTHWHILE TASK TO DO. BUT I WAS WONDERING ABOUT
7 MAYBE THE NEXT STEP.
8 LET ME TELL YOU WHAT I WAS THINKING
9 ABOUT IN MY MIND IS, YOU KNOW, WITH THE WEB PAGE
10 AND THE WORK THAT WE'RE DOING TO BE ABLE TO GIVE
11 PEOPLE INFORMATION ABOUT THE PROGRAMS IN THEIR OWN
12 AREAS -- TALK ABOUT THE RECYCLING RATES. TALK ABOUT
13 THE PROGRAMS THAT THEY'RE DOING. TALK ABOUT WHICH
14 ONES WE THINK ARE REALLY EXEMPLARY. GET THE
15 FEEDBACK FROM THE LOCALS. PROVIDE THE INFORMATION
16 FOR THE LOCALS SO THE LOCALS CAN COMPARE WHAT
17 THEIR JURISDICTION IS DOING VERSUS WHAT OTHER
18 JURISDICTIONS ARE DOING IN THE STATE. I THINK THIS IS
19 ONE WAY OF GETTING A LOT OF SUPPORT FOR THE
20 MISSION AND THE THINGS THAT WE'RE TRYING TO DO
21 AND BUILD UP THAT GROUND SUPPORT AS A COMPLEMENT
22 TO US ALWAYS PUTTING THE PRESSURE ON THE TOP.
23 I THINK THERE'S THINGS WE CAN DO WITH
24 THE EXEMPLARY PROGRAMS AND OTHER THINGS IF WE
25 LOOK AT THE WEB PAGE AND OTHER THINGS TO BUILD UP

1 THAT SUPPORT LOCALLY AND HAVE A LOT OF LOCAL
2 PEOPLE START RAISING QUESTIONS ABOUT THE PROGRAMS --
3 AND HOW FAR THEIR JURISDICTIONS ARE GOING.
4 SO THAT'S JUST A THOUGHT TO THROW
5 OUT FOR CONSIDERATION.

6 CHAIRMAN PENNINGTON: VERY GOOD.

7 MR. O'SHAUGHNESSY: AND EXCUSE ME, MR. CHAIRMAN.

8 CHAIRMAN PENNINGTON: YES --

9 MR. O'SHAUGHNESSY: JUST TO ADDRESS MR.
10 RHOADS. THE AFTERNOON WORKSHOP-- THE BOARD--ALL THE
11 STAFF WILL BE SPONSORING AND WORKING
12 WITH -- IS TO DO EXACTLY THAT. AND THEN TO CONTINUE
13 ON THAT WORKING PROCESS WITH THE OLA STAFF, THE
14 OFFICE OF LOCAL ASSISTANCE STAFF, TO CONTINUE THAT
15 COMMUNICATION AND TO KEEP THE NETWORKING GOING.

16 CHAIRMAN PENNINGTON: VERY GOOD. OKAY.
17 ANYBODY WANT TO MAKE A MOTION HERE?

18 MR. CHANDLER: DAN, I JUST HAVE A QUESTION HERE.

19 CHAIRMAN PENNINGTON: YES.

20 MR. CHANDLER: I JUST WANT TO MAKE SURE
21 I -- IN YOUR SUMMARY, YOU REFER TO EXEMPLARY SOLID
22 WASTE DIVERSION PROGRAMS, THESE CASE STUDIES. AND
23 I JUST WANTED TO VERIFY, WILL THERE BE
24 OPPORTUNITIES TO INCLUDE IN THAT NOT JUST THE
25 DIVERSION EXEMPLARY PROGRAMS, BUT THOSE PROGRAMS

1 THAT WE WOULD WANT THEM TO CONSIDER ON THE DEMAND
2 SIDE AND CLOSING THE LOOP, SO THAT WE'RE NOT JUST
3 TALKING DIVERSION PROGRAMS BUT LIKE PROCUREMENT
4 POLICIES THAT WOULD ACTUALLY HELP CLOSE THE LOOP?
5 OR IS THIS JUST THE SUPPLY SIDE?

6 MS. FRIEDMAN: ACTUALLY, IT
7 WAS NOT LIMITED JUST TO SUPPLY SIDE. IT LOOKS AT
8 THE WHOLE GAMUT OF -- A RANGE OF DIVERSION WE WERE
9 USING, DIVERSION IN THE GLOBAL SENSE OF EFFECTIVE
10 DIVERSION, WHICH IS CLOSE THE LOOP DIVERSION.

11 MR. CHANDLER: ALL RIGHT. GOOD.

12 CHAIRMAN PENNINGTON: OKAY, I'LL
13 ENTERTAIN A MOTION.

14 MEMBER EATON: MR. CHAIR, I'LL MOVE THAT
15 WE ADOPT RESOLUTION 98-3 68 REGARDING THE SCOPE OF
16 WORK FOR THE DEVELOPMENT OF CASE STUDIES ON THE
17 EXEMPLARY SOLID WASTE DIVERSION PROGRAMS, ET
18 CETERA.

19 CHAIRMAN PENNINGTON: AS AMENDED. RIGHT?

20 MEMBER EATON: AS AMENDED.

21 MEMBER JONES: AND I'LL SECOND.

22 CHAIRMAN PENNINGTON: MR. EATON MOVES,
23 MR. JONES SECONDS THE ADOPTION OF THE REVISED
24 RESOLUTION 98-3 68.

25 IF THERE'S NO FURTHER DISCUSSION,

1 WILL THE SECRETARY CALL THE ROLL, PLEASE.

2 THE SECRETARY: BOARD MEMBER CHESBOROUGH,

3 ABSENT.

4 BOARD MEMBER EATON?

5 MEMBER EATON: AYE.

6 THE SECRETARY: FRAZEE?

7 MEMBER FRAZEE: AYE.

8 THE SECRETARY: JONES?

9 MEMBER JONES: AYE.

10 THE SECRETARY: RHOADS?

11 MEMBER RHOADS: AYE.

12 THE SECRETARY: CHAIRMAN PENNINGTON?

13 CHAIRMAN PENNINGTON: AYE.

14 THE MOTION CARRIES.

15 WE'LL MOVE TO ITEM NO. 10,

16 CONSIDERATION OF APPROVAL OF THE SCOPE OF WORK FOR

17 REQUESTS FOR PROPOSALS TO IMPLEMENT THE

18 AGRICULTURAL AND OTHER END-USE PARTNERSHIP

19 CONTRACT CONCEPTS. CAREN TRGOVCICH.

20 DO WE NEED TO EX PARTE THIS WASHBURN, BRISCOE &

21 MCCARTHY LETTER, OR HAVE WE DONE THAT?

22 MEMBER EATON: AND MR. CHAIR, I MIGHT AS WELL,

23 WHILE WE'RE DOING IT -- THE MICHAEL J. LEGGINS

24 LETTER SHOWED UP ON MY DESK, AS WELL, FROM THIS

25 MORNING. SO WHILE WE'RE WAITING HERE FOR HOWARD

1 TO BEGIN, I MIGHT AS WELL EX PARTE THAT, THE LETTER
2 FROM MICHAEL J. LEGGINS REGARDING THE HUMBOLDT
3 ISSUE ON TODAY'S AGENDA, REGARDING CONTAMINATED
4 SOILS.

5 DID YOU SAY WE HAVE TO EX PARTE THE
6 WASHBURN ONE? MAYBE WE CAN JUST DO IT FOR
7 EVERYONE.

8 CHAIRMAN PENNINGTON: YEAH, I'LL DO IT.

9 MEMBER EATON: OKAY, GREAT. THANK YOU.

10 CHAIRMAN PENNINGTON: A LETTER HERE FROM
11 ANNE MUDGE OF THE WASHBURN, BRISCOE & MCCARTHY LAW
12 FIRM DEALING WITH THE HUMBOLDT SITUATION, ADDENDA
13 ITEM NO. 1.

14 ARE YOU READY HOWARD? OKAY. HOWARD
15 LEVENSON.

16 AGENDA ITEM 10:

17 MR. LEVENSON: GOOD AFTERNOON MR.
18 CHAIRMAN AND MEMBERS OF THE BOARD. FOR THE
19 RECORD, I AM HOWARD LEVENSON WITH THE WASTE
20 PREVENTION AND MARKET DEVELOPMENT DIVISION.

21 THIS IS ITEM 10, WHICH IS SEEKING
22 YOUR APPROVAL FOR A SCOPE OF WORK FOR END-USE
23 PARTNERSHIPS, REQUESTS FOR PROPOSALS.

24 BY WAY OF BACKGROUND, AS YOU RECALL,
25 IN SEPTEMBER THE BOARD APPROVED A CONTRACT CONCEPT

1 AND FUNDED IT TO THE AMOUNT OF \$375,000. THAT
2 CONTRACT CONCEPT HAD TWO COMPONENTS. ONE WAS A
3 \$300,000 ALLOCATION FOR END-USE PARTNERSHIP
4 PROJECTS, AND THE OTHER WAS \$75,000 FOR GENERAL
5 OUTREACH. THE \$300,000 COMPONENT IS BEFORE YOU
6 TODAY.
7 AND THE GOAL OF THAT CONTRACT
8 CONCEPT OR THAT PORTION OF IT IS TO ESTABLISH OR
9 ENHANCE ALLIANCES WITH END-USERS SPECIFICALLY TO
10 INCREASE THE USE OF COMPOSTING MULCH.
11 AND JUST IN TERMS OF END-USE HERE, WE
12 ARE BEING VERY BROAD IN OUR DEFINITION OF THAT. IT
13 CAN INCLUDE VIRTUALLY ANY TYPE OF END-USE,
14 SUSTAINABLE AGRICULTURE, EROSION CONTROL, BIO15 REMEDIATION, WETLANDS
RESTORATION.
16 I HAD A CALL
17 THE OTHER DAY FROM A ZONE ADMINISTRATOR ABOUT A
18 MINE RECLAMATION PROJECT. SO IT'S A VERY BROAD
19 ORIENTATION ON END-USE HERE -- HORTICULTURE,
20 SILVICULTURE.
21 AND THIS CONTRACT CONCEPT WILL
22 DIRECTLY IMPLEMENT THE TARGETS FIVE AND SIX OF THE
23 GREENING TEAM.
24 THERE'S SEVERAL ASPECTS OF THE SCOPE
25 OF WORK THAT'S BEFORE YOU. THE FIRST TWO REALLY

1 REFER TO SOME OF THE QUALIFICATIONS OR WHAT WE'RE
2 LOOKING FOR IN THE PARTNERSHIP.
3 AS YOU KNOW IN THE PAST, WE'VE HAD
4 AGRICULTURAL COMPOST DEMONSTRATION PROJECTS WHERE
5 ONE OF THE REQUIREMENTS WAS A TEAM COMPOSED OF
6 ENTITIES, SUCH AS A FARM ADVISOR, A COMPOST OR
7 MULCH PRODUCER, A LOCAL GOVERNMENT, AND SIMILAR
8 PLAYERS. WE ARE LOOKING TO EXTEND THAT KIND OF
9 APPROACH HERE AND HAVE A SIMILAR PARTNERSHIP
10 APPROACH AS A REQUIREMENT. IT DOESN'T HAVE TO BE
11 THOSE EXACT PLAYERS, BUT A SIMILAR CONSORTIUM OF
12 EXPERTS, PRODUCERS AND THE APPROPRIATE END-USERS
13 AND WHERE APPROPRIATE ANY KIND OF PUBLIC AGENCY.
14 THE SECOND MAJOR REQUIREMENT IS THAT
15 IN SEEKING TO LEVERAGE OUR RESOURCES, WE ARE
16 LOOKING FOR A MATCHING COMMITMENT ON THE PART OF
17 THE PARTNERSHIP. THIS COULD BE EITHER ACTUAL
18 FUNDING COMMITMENTS OR IN-KIND SERVICES, SUCH AS
19 THE PROVISION OF WORKSHOPS AND PERSONNEL AND
20 OTHER ACTIVITIES.
21 THERE ARE FOUR MAJOR TASKS IN THE
22 SCOPE OF WORK PART OF THE AGENDA ITEM, ATTACHMENT
23 ONE. THE FIRST PART IS THE ACTUAL PROJECT ITSELF,
24 WHERE THE PARTNERSHIP HAS TO IDENTIFY SOME OF THE
25 BARRIERS TO INCREASING THE USE OF COMPOST AND

1 MULCH IN THAT PARTICULAR END-USE SECTOR. AND
2 DESIGN A PROJECT THAT WILL ILLUSTRATE THE BENEFITS
3 AND SHOW OTHER END-USES IN THAT SECTOR HOW TO
4 OVERCOME THOSE BARRIERS.
5 THE SECOND COMPONENT, OR THE SECOND
6 TASK, IS THE REQUIREMENT TO CONDUCT AT LEAST TWO
7 FIELD DAYS OR SOME KIND OF PUBLIC EVENTS DURING
8 THE COURSE OF THE PROJECT AND TO HOLD AT LEAST
9 ONE WORKSHOP FOR END USERS DURING THE COURSE OF
10 THE PROJECT SO THAT PRELIMINARY RESULTS CAN BE
11 DISSEMINATED AND END USERS -- SAY IT'S IN A
12 HORTICULTURE PROJECT. OTHER PEOPLE WHO ARE
13 INVOLVED IN HORTICULTURE CAN COME IN AND SEE
14 WHAT'S GOING ON IN THAT PARTICULAR PROJECT.
15 A THIRD COMPONENT IS -- BOTH IN TERMS
16 OF PRELIMINARY RESULTS AND FINAL RESULTS -- TO
17 CREATE HARD-COPY INFORMATION, IF YOU WILL. FACT
18 SHEETS, CASE STUDIES, WEB-ORIENTED INFORMATION
19 THAT WE CAN DISSEMINATE BOTH THROUGHOUT THE STATE
20 AND ANYWHERE ELSE WHERE THERE'S A NEED FOR THIS
21 KIND OF INFORMATION.
22 AND THEN THE FOURTH TASK IS DETAILED
23 PROJECT EVALUATION. STARTING WITH BASELINE DATA
24 AT THE BEGINNING OF THE PROJECT AS TO WHO'S USING
25 COMPOST AND MULCH IN THAT PARTICULAR END USE AND

1 THEN LOOKING AT BOTH INCREASE S IN COMPOST AND
2 MULCH USE BY THE ACTUAL PARTICIPANTS, AS WELL AS
3 LIKELY INCREASES BY SIMILAR USERS AFTER THEY GET
4 THE INFORMATION THAT RESULTS FROM THIS PROJECT.
5 I'D LIKE TO POINT OUT TO YOU A COUPLE
6 OF UNIQUE ASPECTS OF THIS REQUEST FOR PROPOSALS.
7 IN TRYING TO DEVELOP THIS WE WERE STRUGGLING WITH
8 THE IDEA THAT WE WANTED TO GET THE BEST PROPOSAL
9 AS POSSIBLE AND IT DIDN'T REALLY MATTER WHAT END-
10 USE SECTOR IT CAME FROM. AND WE WERE CONCERNED
11 ABOUT REALLY, FRANKLY, GETTING LOW-BALL ESTIMATES.
12 SO PAT PASTWATER AND MY STAFF HAD
13 NOTICED A DEPARTMENT OF PESTICIDE REGS MODEL WHERE
14 THEY WERE ABLE TO AWARD CONTRACTS TO THE HIGHEST-
15 SCORING PROPOSALS AS OPPOSED TO THE LOWEST-COST
16 BIDDERS.
17 AND WE WORKED WITH THE CONTRACTS
18 OFFICE -- AND I WANT TO THANK LYNN ANDERSON AND
19 JANE HOWARD OF THAT OFFICE -- AND DGS TO GAIN
20 APPROVAL OF AN APPROACH WHERE WE CAN USE THIS RFP.
21 AND WE CAN AWARD MULTIPLE CONTRACTS FROM THE
22 SINGLE REP.
23 WE ARE PROPOSING THAT WE AWARD
24 MULTIPLE AWARDS UP TO \$100,000 EACH. SO WE MAY
25 HAVE -- IF OUR THREE TOP-SCORING PROPOSALS ARE

1 EACH FOR ROUGHLY \$100,000, WE WOULD HAVE THREE
2 PROPOSALS. WE MIGHT HAVE FOUR OR FIVE DEPENDING
3 ON THE ACTUAL BIDS THEMSELVES.
4 BUT THE AWARDS WILL GO TO THE
5 HIGHEST-SCORING PROPOSALS. AND THAT SCORING WILL
6 BE ON THE BASIS OF VARIOUS EVALUATION CRITERIA
7 THAT GO FORTH IN THE RFP. AND AS I SAID BEFORE,
8 THAT HAS BEEN APPROVED BY DGS. SO WE'RE VERY
9 PLEASED WITH THAT APPROVAL. WE THINK IT MIGHT BE
10 A MODEL FOR SOME OF OUR FUTURE CONTRACTS.
11 THE SCHEDULE FOR COMPLETING THIS
12 BIDDING PROCESS IS THAT ASSUMING THE BOARD DOES
13 APPROVE THE SCOPE OF WORK TODAY, WE'LL BE ABLE TO
14 ADVERTISE THE RFP NEXT WEEK IN THE CONTRACTS
15 REGISTER AND THROUGH OTHER VEHICLES. AND WE WOULD
16 HAVE PROPOSALS DUE IN ABOUT TWO MONTHS, EARLY
17 JANUARY. AND DEPENDING ON WHEN THE BOARD MEETING
18 IS IN FEBRUARY AND HOW LONG IT TAKES FOR US TO
19 EVALUATE THE PROPOSALS, WE WOULD COME BACK TO YOU
20 SEEKING THE AWARD OF CONTRACTS EITHER AT THE
21 FEBRUARY MEETING OR POSSIBLY THE MARCH MEETING.
22 AND THAT IS ALL I HAVE IN THE WAY OF
23 PRESENTATION. I'D BE HAPPY TO ANSWER ANY
24 QUESTIONS YOU MIGHT HAVE.

25 CHAIRMAN PENNINGTON: QUESTIONS? MR.

1 FRAZEE.

2 MEMBER FRAZEE: THE TERM "MUNICIPAL
3 COMPOST AND MULCH," DOES THAT INCLUDE WOOD CHIP
4 MULCH ALSO?

5 MR. LEVENSON: YES, IT DOES.
6 THIS IS JUST REFERRING TO -- IT'S A
7 TERM OF ART, IF YOU WILL, TO TRY AND CHARACTERIZE
8 IT AS AB 939, ORGANIC MATERIALS, AS OPPOSED TO
9 SOMETHING THAT CAME STRICTLY FROM A FOREST-ONLY
10 BASIS AND WOULD NEVER HAVE GONE INTO A LANDFILL IN
11 THE FIRST PLACE.

12 MEMBER FRAZEE: OKAY. RIGHT.
13 AND THEN, ARE PUBLIC AGENCIES
14 ELIGIBLE TO PARTICIPATE?

15 MR. LEVENSON: THEY CERTAINLY ARE. AND
16 THEY'RE ENCOURAGED TO.

17 MEMBER FRAZEE: OKAY. THAT'S ALL.

18 CHAIRMAN PENNINGTON: OKAY. ANY OTHER
19 QUESTIONS? MR. EATON?

20 MEMBER EATON: NO. JUST TO KIND OF
21 REMINDER THAT THE STATE FAIR HAS OFFERED TO WORK WITH
22 US ON SOME OF THEIR ONGOING AGRICULTURAL PROJECTS
23 ON THEIR FARM. AND HOPEFULLY SOMETHING COULD BE
24 DONE WITH THIS, AS WELL AS OTHER THINGS AROUND THE
25 STATE FAIR THAT MIGHT BE HELPFUL ON AN ONGOING

1 BASIS.

2 MR. LEVENSON: RIGHT. I THINK WE
3 ESTABLISHED A PRETTY GOOD RELATIONSHIP WITH THE
4 FAIR ON THE LAST GO-ROUND.
5 I FORGOT TO MENTION ONE POINT THAT
6 MR. JONES BROUGHT UP IN HIS BRIEFING. AND THAT
7 WAS A CONCERN ABOUT ANY OF THE PRODUCERS WHO MIGHT
8 PARTICIPATE IN THESE PARTNERSHIPS THAT THEY NOT
9 BE OPERATORS WHO ARE OUT OF COMPLIANCE WITH ANY OF
10 OUR APPROPRIATE REGULATIONS.
11 AND I WORKED WITH SUZANNE SMALL OF
12 OUR LEGAL STAFF. AND THERE IS A PHRASE THAT WE CAN
13 INSERT INTO THE INTRODUCTORY MATERIAL OF THE RFP
14 THAT WOULD BE SOMETHING TO THE EFFECT OF: "AND
15 WHO OPERATE IN COMPLIANCE WITH APPROPRIATE CIWMB
16 REGULATIONS." AND WE PLAN TO DO THAT, TO ADDRESS
17 THAT COMMENT.

18 CHAIRMAN PENNINGTON: OKAY. GOOD.

19 MEMBER RHOADS: I'LL BE HAPPY TO MOVE THE ADOPTION
20 OF RESOLUTION 98-352.

21 CHAIRMAN PENNINGTON: OKAY. SECOND?

22 MEMBER FRAZEE: I'LL SECOND.

23 CHAIRMAN PENNINGTON: MR. RHOADS MOVES ADOPTION
24 OF RESOLUTION 98-3 52, MR. FRAZEE SECONDS.

25 IF THERE'S NO FURTHER DISCUSSION,

1 WILL THE SECRETARY CALL THE ROLL?

2 THE SECRETARY: BOARD MEMBER CHESBOROUGH,

3 ABSENT.

4 BOARD MEMBER EATON?

5 MEMBER EATON: AYE.

6 THE SECRETARY: FRAZEE?

7 MEMBER FRAZEE: AYE.

8 THE SECRETARY: JONES?

9 MEMBER JONES: AYE.

10 THE SECRETARY: RHOADS?

11 MEMBER RHOADS: AYE.

12 THE SECRETARY: CHAIRMAN PENNINGTON?

13 CHAIRMAN PENNINGTON: AYE.

14 THE MOTION CARRIES.

15 LET'S MOVE TO ITEM NO. 11,

16 CONSIDERATION AND APPROVAL OF A PROPOSED PROCESS

17 FOR DISCRETIONARY CONSULTING AND PROFESSIONAL

18 SERVICES CONTRACTS. KAREN FISH.

19 AGENDA ITEM 11:

20 MS. FISH: THANK YOU, CHAIRMAN PENNINGTON

21 AND BOARD MEMBERS. SANDY CONRY, THE CONTRACTS

22 MANAGER, AND TERRY JORDAN, THE BRANCH MANAGER OF

23 OUR ADMINISTRATIVE SERVICES BRANCH, WILL BE MAKING

24 THE PRESENTATION ON THIS ITEM.

25 CHAIRMAN PENNINGTON: OKAY.

1 MS. CONRY: GOOD AFTERNOON.
2 THIS ITEM BROUGHT BEFORE YOU TODAY IS
3 TO ASK FOR YOUR CONSIDERATION AND APPROVAL OF A
4 PROPOSAL TO STREAMLINE THE CURRENT PROCESS FOR
5 DISCRETIONARY CONSULTING AND PROFESSIONAL SERVICES
6 CONTRACTS. THE PRIMARY FOCUS OF THE PROPOSED
7 CHANGE ENTAILS THE CONSOLIDATED EFFORT FOR THE
8 DEVELOPMENT, REVIEW, AND APPROVAL OF CONTRACT
9 CONCEPTS IS DETAILED SCOPES OF WORK.
10 THE CHANGES BEING RECOMMENDED TODAY
11 BY STAFF WILL BENEFIT THE BOARDS PROGRAMMATIC
12 OPERATIONS BY ESTABLISHING A MORE EFFICIENT MEANS
13 OF IMPLEMENTING CONTRACTS IN A MORE TIMELY MANNER.
14 THE CURRENT PROCESS USED BY THE BOARD HAS BEEN
15 KNOWN TO BE LENGTHY AND CUMBERSOME. AS YOU ARE
16 AWARE, STEPS ARE TAKEN TO DEVELOP CONTRACT
17 CONCEPTS AND ARE BROUGHT BEFORE THE BOARD FOR
18 APPROVAL.
19 ONCE THAT STEP HAS BEEN COMPLETED,
20 SCOPES OF WORK ARE THEN DEVELOPED BASED ON THE
21 APPROVED CONCEPTS AND ARE BROUGHT BEFORE THE
22 BOARD FOR APPROVAL AS SEPARATE AGENDA ITEMS BEFORE
23 CONTRACTS CAN BE IMPLEMENTED. THE CURRENT PROCESS
24 ENTAILS THE FOLLOWING STEPS AND TIME LINES.
25 ONE, CONTRACT CONCEPTS ARE SOLICITED

1 AND REVIEWED, FUNDING AVAILABILITY IS IDENTIFIED,
2 AND EXECUTIVE STAFF RECOMMENDATIONS ARE
3 DETERMINED. THIS STEP TAKES APPROXIMATELY TWO TO
4 THREE MONTHS TO COMPLETE.
5 TWO, THE CONTRACT CONCEPTS ARE
6 PRESENTED TO THE BOARD FOR A 30-DAY REVIEW PERIOD.
7 THREE, 30 DAYS LATER AN AGENDA ITEM
8 IS BROUGHT BEFORE THE BOARD REQUESTING APPROVAL OF
9 CONTRACT CONCEPTS.
10 FOUR, STAFF
11 DEVELOPS SCOPES OF WORK FOR CONTRACT CONCEPTS THAT
12 WERE APPROVED -- THIS STEP HAS TAKEN FROM 30 DAYS
13 TO SEVERAL MONTHS -- THE SCOPES OF WORK ARE
14 BROUGHT BEFORE THE BOARD FOR APPROVAL.
15 AND LASTLY, CONTRACTS ARE DEVELOPED
16 THROUGH THE APPROPRIATE PROCESS. THIS STEP CAN
17 TAKE ANYWHERE FROM ONE TO SIX MONTHS TO COMPLETE
18 DEPENDING ON THE APPROPRIATE PROCESSED USED, SUCH
19 AS FOR INTERAGENCY AGREEMENTS, INVITATION FOR BID,
20 OR REQUESTS FOR PROPOSAL.
21 AS A RESULT, THE COMPLETE PROCESS IS
22 TAKING ANYWHERE FROM FIVE TO 15 MONTHS TO
23 COMPLETE. AND IN MOST CASES, THE CONTRACT IS BEING
24 AWARDED NEAR THE END OF THE FISCAL YEAR. THIS
25 TIME FRAME COULD BE EVEN LONGER IF UNEXPECTED

1 DELAYS OCCUR, SUCH AS APPROVAL OF THE CONTRACT
2 CONCEPT, DEVELOPMENT, APPROVAL OF THE SCOPE OF
3 WORK, OR UNFORSEEN PROBLEMS WITH THE AWARD OF A
4 CONTRACT, SUCH AS A PROTEST BEING FILED.
5 IF THERE IS A NEED FOR A SOLICITATION
6 TO BE RE-BID, THERE IS NOT ALWAYS SUFFICIENT TIME
7 FOR THIS TO OCCUR.
8 ALSO IF A CONTRACT IS NOT
9 ESTABLISHED PRIOR TO THE END OF THE FISCAL YEAR IN
10 WHICH THE FUNDS ARE RECEIVED, THOSE FUNDS COULD BE
11 LOST.
12 THE CURRENT PROCESS DOES NOT ALLOW
13 SUFFICIENT TIME NOR PROVIDE THE FLEXIBILITY
14 NEEDED TO IMPLEMENT A CONTRACT EARLY IN THE FISCAL
15 YEAR SO THAT SERVICES ARE RECEIVED WITHIN THE SAME
16 FISCAL YEAR FROM WHICH THE CONTRACT IS FUNDED.
17 SINCE THE ADOPTION OF THE CURRENT
18 CONSULTING PROFESSIONAL SERVICES CONTRACTING
19 PROCESS, THE BOARD HAS IMPLEMENTED A STRATEGIC
20 PLAN, ESTABLISHED PRIORITY GOALS, AND IDENTIFIED
21 EFFICIENCY MEASURES TO PURSUE IMPROVEMENT OF
22 CURRENT PROCESSES.
23 BECAUSE OF THIS PURSUIT FOR
24 EFFICIENCY, IT IS PROPOSED TODAY THAT THIS
25 CONTRACTING PROCESS BE REVISED TO BETTER MEET THE

1 NEEDS OF THE BOARD IN ACHIEVING THESE ESTABLISHED
2 GOALS, AND TO BETTER MEET THE NEEDS OR
3 PROGRAMMATIC OPERATIONS.
4 EFFICIENCY MEASURES HAVE NOW BEEN
5 IDENTIFIED TO IMPROVE THIS CURRENT PROCESS. THE
6 PRIMARY CHANGE BEING PROPOSED IS TO BRING FORWARD
7 A BRIEF CONCEPT KNOWN AS THE CONCEPTUAL
8 INFORMATION SHEET AND A DETAILED SCOPE OF WORK
9 CONCURRENTLY TO THE BOARD FOR REVIEW AND APPROVAL.
10 THIS COMBINED EFFORT WILL PLAY A MAJOR ROLE IN THE
11 ATTEMPT TO REDUCE THE PROCESSING TIME TO IMPLEMENT
12 A CONTRACT.
13 A SUMMARY LISTING OF ALL CONCEPTS,
14 SCOPES OF WORK AND MONETARY INFORMATION, ALONG
15 WITH THE EXECUTIVE STAFF RECOMMENDATIONS, WOULD
16 CONTINUE TO BE INCLUDED WITH THE BOARD ITEM AS IN
17 THE PAST. ONCE THE BOARD HAS APPROVED THE
18 COMBINED CONCEPTS AND SCOPES OF WORK, THE CONTRACTS
19 COULD THEN BE IMPLEMENTED THROUGH THE APPROPRIATE
20 PROCESSES.
21 THE FLOW CHART IN ATTACHMENT TWO OF
22 THIS ITEM REFLECTS THE STEPS OF THE PROPOSED
23 PROCESS BROUGHT BEFORE YOU TODAY FOR CONSIDERATION
24 AND APPROVAL. THE HIGHLIGHTED STEPS REFLECT
25 CHANGES TO THE CURRENT PROCESS. THE STEPS TO THE

1 PROPOSED PROCESS WOULD BE AS FOLLOWS.
2 ONE, DETERMINATION MADE OF SERVICES
3 NEEDED BASED ON PRIORITY AREA NEEDS AND GOALS.
4 TWO, COMPLETION OF THE CONCEPTUAL
5 INFORMATION SHEET AND DEVELOPMENT OF A DETAILED
6 SCOPE OF WORK BASED ON PRIORITY AREA TEAM GOALS OR
7 NEW INITIATIVES.
8 THREE, ALL CONCEPTUAL INFORMATION
9 SHEETS AND SCOPES OF WORK ARE REVIEWED AND A
10 SUMMARY LISTING IS DEVELOPED REFLECTING ALL
11 CONCEPTS, SCOPES OF WORK, AND AVAILABLE FUNDING
12 INFORMATION, AS DONE WITH THE CURRENT PROCESS.
13 FOUR, EXECUTIVE STAFF REVIEWS AND
14 DEVELOPS RECOMMENDATIONS.
15 FIVE, THE COMPLETE CONCEPT SCOPE OF
16 WORK PACKAGE, INCLUDING THE AVAILABLE FUNDING
17 INFORMATION AND THE EXECUTIVE STAFF
18 RECOMMENDATIONS IS PRESENTED TO THE BOARD AS
19 INFORMATION-ONLY FOR A 30-DAY REVIEW PERIOD.
20 SIX, A COMPLETE CONCEPT SCOPE OF WORK
21 PACKAGE IS THEN PRESENTED THE FOLLOWING MONTH TO
22 THE BOARD FOR CONSIDERATION AND APPROVAL.
23 SEVEN, DEVELOPMENT AND AWARD OF
24 CONTRACTS IS MADE BASED ON APPROVED SCOPES OF
25 WORK.

1 AS YOU CAN SEE, ALL THE
2 STEPS TO THE PROCESS REMAIN THE SAME.
3 THIS PROPOSED PROCESS HAS BEEN
4 CONSIDERED AND THE CHANGES DISCUSSED WITH THE
5 BOARD MEMBERS, ADVISORS, EXECUTIVE STAFF, AND THE
6 LEGAL OFFICE.
7 IN ADDITION TO THE EFFICIENCIES THAT
8 WOULD BE EXPERIENCED UNDER THE NEW PROCESS IN
9 TERMS OF TIME AND RESOURCES, THE PROPOSED PROCESS
10 WOULD ALSO COMPLY WITH THE REQUIREMENTS OF THE
11 OPEN-MEETING ACT, GOVERNMENT CODE SECTION 11120.
12 THREE OPTIONS ARE IDENTIFIED IN THIS
13 ITEM FOR THE BOARD MEMBERS TO CONSIDER. STAFF
14 RECOMMENDS THAT THE BOARD APPROVE OPTION ONE,
15 WHICH I HAVE DESCRIBE TO YOU TODAY.
16 IN CLOSING, I WOULD LIKE TO SUMMARIZE
17 THAT THE CHANGES PROPOSED TO YOU TODAY WOULD BE TO
18 COMBINE THE CONTRACT CONCEPT AND SCOPE OF WORK
19 SUBMITTALS INTO ONE PACKAGE FOR YOUR REVIEW AND
20 APPROVAL. THIS COMBINED EFFORT WOULD PLAY A MAJOR
21 ROLE IN REDUCING THE PROCESSING TIME TO IMPLEMENT
22 A CONTRACT.
23 IN ADDITION, ALL DETAIL RELATING TO A
24 PROPOSED CONTRACT IS PROVIDED TO YOU AT ONE TIME.
25 HOWEVER, THIS PROCESS WOULD CONTINUE TO PROVIDE

1 YOU WITH THE FLEXIBILITY TO CONSIDER A CONCEPT
2 SCOPE OF WORK PACKAGE, BUT REQUIRES STAFF TO
3 PROVIDE ADDITIONAL DETAIL AT FUTURE MEETINGS.
4 THIS ENDS MY PRESENTATION.

5 CHAIRMAN PENNINGTON: QUESTIONS? MR.
6 EATON.

7 MEMBER EATON: IS THERE ANYTHING RIGHT
8 NOW THAT PREVENTS US FROM HAVING THE SCOPE OF WORK
9 AT THE CONCEPT RIGHT NOW?

10 MS. FISH: EXCUSE ME?

11 MEMBER EATON: IS THERE ANYTHING THAT
12 PREVENTS THE SCOPE OF WORK FROM COMING AT THE SAME
13 TIME THE CONCEPT IS NOW?

14 MS. FISH: NO, NOT REALLY.

15 MEMBER EATON: OKAY. BECAUSE AS I MENTIONED
16 YESTERDAY, I THINK THAT THERE -- I'M ALL FOR
17 EFFICIENCY, AND I THINK THAT THERE MAY BE A
18 PROBLEM.

19 BUT I THINK THAT THIS IS THE WRONG
20 CURE. AND I'M NOT SURE THAT THE BOARD'S ABILITY
21 TO LOOK AT THE CONCEPT FOLLOWED UP BY A SCOPE OF
22 WORK IS WHERE THE ACTUAL ROADBLOCK IS. I THINK
23 IT MAY BE BEFORE. SO I DON'T THINK I'M GOING TO
24 BE ABLE TO SUPPORT THIS MEASURE TODAY.

25 CHAIRMAN PENNINGTON: ANY OTHER DISCUSSION? MR.

1 RHOADS.

2 MEMBER RHOADS: YES, I DO.

3 CHAIRMAN PENNINGTON. ALL RIGHT. MR. RHOADS.

4 MEMBER RHOADS: I THINK I HAVE JUST THE
5 OPPOSITE ATTITUDE. I HAD PROBLEMS SUPPORTING THIS
6 PROBABLY BECAUSE IT HAS TOO MANY STEPS, AND I
7 WOULD BE INTERESTED IN REDUCING IT EVEN MORE.

8 I HEARD 5 TO 15 MONTHS AS THE --
9 THAT'S A LOT OF RANGE. THESE CHANGES WOULD REDUCE
10 IT BY HOW MANY MONTHS, DO YOU THINK, OR HOW MANY
11 WEEKS OUT OF THE PROCESSING TIME?

12 MS. CONRY: WELL, IT COULD REDUCE IT
13 ANYWHERE FROM ABOUT A MONTH AND A HALF TO SEVERAL
14 MONTHS, DEPENDING HOW LONG IT TAKES FOR
15 DEVELOPMENT OF SCOPES OF WORK. IF IT GETS APPROVED
16 THE FIRST TIME, IT'S BROUGHT BEFORE THE BOARD OR
17 IF IT'S CONTINUED OVER FOR ADDITIONAL INFORMATION.

18 MEMBER RHOADS: WE'VE HAD A COUPLE SCOPES
19 OF WORK THAT WENT BEFORE US THIS BOARD MEETING.
20 AND I NOTICED THERE WASN'T ANY CHANGES THERE.
21 DOES THE BOARD USUALLY MAKE CHANGES IN SCOPES OF
22 WORK?

23 MS. CONRY: WE HAVE EXPERIENCED IN THE
24 PAST THAT THE SCOPE OF WORK THAT'S BROUGHT BEFORE
25 THE BOARD, SOMETIMES IT'S REQUESTED THAT

1 ADDITIONAL INFORMATION BE PROVIDED AND/OR MORE
2 DETAIL BE ADDED. THEREFORE, STAFF WILL GO BACK
3 AND MAKE THE NECESSARY CHANGES AND THEN BRINGS IT
4 BACK TO ANOTHER BOARD MEETING.

5 MEMBER RHOADS: MY QUESTION, OR MY
6 COMMENT WOULD -- I WAS VERY SURPRISED TO FIND OUT
7 THAT SCOPES OF WORKS ARE PRESENTED TO THE BOARD.
8 I MEAN, I HAVE NOT -- THAT'S NOT THE RULE OF
9 THUMB. I DON'T THINK, AND -- WELL, I KNOW OF NO
10 OTHER AGENCY THAT DOES THAT. AND THEN YOU HAVE A
11 30-DAY PERIOD WHERE YOU'RE NOTICING FOR IT. AND I
12 JUST FOUND THAT VERY, VERY UNUSUAL.

13 AND I THINK IT'S APPROPRIATE FOR
14 BOARD MEMBERS TO APPROVE THE CONTRACTS AND
15 CONCEPTIONALLY WHAT SHOULD BE APPROVED. I THINK
16 THAT'S EXTREMELY -- AND HOW THE MONEY SHOULD BE
17 ALLOCATED, AND WHAT ALL THE PRIORITIES FOR THE
18 BOARD? AND I THINK IT'S OBVIOUSLY VERY, VERY
19 APPROPRIATE FOR THE BOARD TO APPROVE THE AWARDS.
20 BUT WE PAY OUR MANAGEMENT TEAM I
21 THINK A PRETTY GOOD SALARY. PROBABLY NOT AS MUCH
22 AS WE SHOULD. AND -- BUT I THINK THAT RESPONSIBILITY
23 SHOULD BE PUT ON THE ADMINISTRATIVE FOLKS AND ON
24 MANAGEMENT AND ON THE DIVISION MANAGEMENT.
25 I WOULD REALLY QUESTION WHY THE BOARD

1 NEEDS TO TAKE A LOOK AT THE SCOPE OF WORK. I
2 MEAN, IF WE GIVE DIRECTION ON WHAT WE WANT IN A
3 CONTRACT AND WE HAVE ADVISORS THAT CAN ALSO CHECK
4 ON THESE THINGS -- I MEAN, OUR MANAGEMENT SHOULD
5 BE ABLE TO DELIVER ON THAT.
6 I MEAN, I JUST--WHEN YOU'RE GOING
7 TO ADD ANOTHER TWO OR THREE MONTHS ONTO THE
8 PROCESS JUST BECAUSE YOU WANT A SECOND OR A THIRD
9 LEVEL OF REVIEW, THAT'S NOT THE WAY DIRECTIONS --
10 THAT MANAGEMENT'S GOING THROUGHOUT THIS COUNTRY.
11 YOU'RE TALKING ABOUT GIVING POWER TO THE STAFF,
12 GIVING AUTHORITY, GIVING RESPONSIBILITY. IF THEY
13 DON'T DO THE JOB, THEN YOU CHANGE THE STAFF.
14 AND I JUST--I WOULD LIKE TO SEE
15 THIS BOARD GO A COMPLETELY DIFFERENT DIRECTION.
16 AND MY PROPOSAL WOULD BE TO MAKE THE DISCRETIONARY
17 SERVICE PROCESS A LITTLE BIT MORE SIMILAR TO THE
18 MANDATORY SERVICE PROCESS AND NOT HAVE THE SCOPE
19 OF WORK BE GIVEN TO THE BOARD, UNTIL SOME --
20 I MEAN, I NEED TO BE CONVINCED THAT
21 IF -- IF STAFF'S NOT GOING TO FOLLOW THROUGH WITH
22 WHAT THE BOARD DIRECTS IT TO DO, THEN I WOULD -- I
23 THINK THAT'S A COMPLETELY DIFFERENT PROBLEM.
24 CHAIRMAN PENNINGTON: SHOULD WE LET STAFF
25 RESPOND TO THAT?

1 MEMBER JONES: I JUST WANTED TO ADD SOMETHING
2 BEFORE STAFF DID. BECAUSE I -- IT'S A QUESTION TO
3 STAFF.
4 IT SEEMED TO ME THAT OUR ADVISORS
5 USED TO LOOK AT SCOPES OF WORK AND USED TO
6 DELIBERATE ON THEM. AND AS PART OF OUR
7 DISCUSSIONS AROUND BAGLEY-KEENE AND AROUND THOSE
8 TYPES OF THINGS, PRIOR TO US GOING TO TWO BOARD
9 MEETINGS A MONTH, THEY COULDN'T DELIBERATE.
10 SO WHAT WE WENT TO -- WE SAID WE
11 CAN'T HAVE THIS PROCESS SO IT NEEDS TO COME TO THE
12 BOARD, BECAUSE WE WERE EXCLUDED FROM THAT
13 METHODOLOGY BY A STATE LAW. AND THAT WAS, I
14 THINK, WHERE WE WENT.
15 BECAUSE I AGREE, MR. RHOADS, I AGREE
16 WITH YOU A HUNDRED PERCENT. I FOUGHT -- I USED TO
17 FIGHT WITH SENATOR CHESBOROUGH THAT IT'S NOT OUR JOB
18 TO GET INTO WHAT-19

 MEMBER EATON: I LIKE THAT RING. SAY
20 THAT ONE MORE TIME.

21 MEMBER JONES: IT'S NOT OUR JOB TO GET INTO
22 THE MINUTIAE. I MEAN, LET THEM DO IT. LET US GIVE
23 THE CONCEPT.
24 BUT AS PART OF THE BAGLEY-KEENE
25 DISCUSSION, IT WAS -- OUR ADVISORS COULDN'T GET

1 TOGETHER WITH STAFF TO WORK THOSE THINGS OUT. SO
2 THE NEXT OPEN FORUM THAT IT COULD GO TO WAS THIS
3 FORUM HERE. AND THAT'S WHY WE SAID, WELL, THEN
4 BRING THEM TO US AND WE'LL LOOK AT THEM. AND IF
5 WE'VE GOT A PROBLEM, YOU'LL KNOW IT. AND IF YOU
6 DON'T HAVE A PROBLEM, THEN IT'LL JUST GO ON. I
7 MEAN, YOU'LL JUST GET IT. YOU'LL DO THE WORK.
8 MAYBE IT NEEDS TO BE REFINED. MAYBE
9 IT NEEDS TO BE DIFFERENT. BUT WHILE I AGREE WITH
10 YOU A HUNDRED PERCENT, WE WERE PUT INTO THIS
11 POSITION, I THINK BECAUSE OF BAGLEY-KEENE, AND
12 BECAUSE OUR ADVISORS COULD NOT DO THEIR JOBS AND
13 OUR JOBS.

14 MEMBER RHOADS: I'M GETTING

15 A BETTER PICTURE FOR THE IS SUE. BUT I JUST --

16 MEMBER EATON: IT'S STILL A LITTLE FUZZY.

17 MEMBER RHOADS: YEAH, IT'S STILL A LITTLE
18 FUZZY TO ME. BECAUSE I'D JUST LIKE TO KNOW WHY
19 OUR MANAGEMENT AND OUR STAFF CAN'T DO THE JOB. I
20 MEAN, WHY CAN'T THEY DO THE SCOPE OF WORK? I JUST
21 THINK THAT'S A MANAGEMENT RESPONSIBILITY, NOT A
22 BOARD MEMBER TO DO THE SCOPE. THAT'S THIS BOARD
23 MEMBER'S VIEWPOINT ON THIS THING.

24 AND I MEAN, I THINK -- YOU KNOW, I'M

25 VERY PLEASED THAT THE STRATEGIC PLAN SAID THAT

1 EFFICIENCY IS A VERY, VERY KEY ELEMENT. AND HERE
2 YOU HAVE AN OPPORTUNITY TO REDUCE BY A COUPLE OF
3 MONTHS THESE CONTRACTS GETTING OUT THE DOOR. AND
4 I JUST -- I THINK THAT SHOULD BE OUR GOAL, AND WE
5 SHOULD GIVE MORE RESPONSIBILITY TO STAFF TO DO
6 THEIR JOB. THAT WOULD BE MY SUGGESTION, AS A
7 TRIAL BALLOON IF NOTHING ELSE.

8 CHAIRMAN PENNINGTON: MS. FISH?

9 MS. FISH: YES, KAREN FISH.

10 WE HAVE SOME TIME. THIS IS TO GET A
11 PROCESS IN PLACE FOR NEXT YEAR, TO START THIS
12 EARLY SPRING. WHY DON'T WE TAKE THIS BACK, AND WE
13 CAN TRY AGAIN AND MEET WITH THE BOARD MEMBERS AND
14 THE ADVISORS AND SEE IF WE COULD COME UP WITH A
15 PROCESS THAT MET THE NEEDS BETTER, MAYBE MORE
16 STREAMLINED -- COME UP WITH SOMETHING EVEN BETTER?

17 CHAIRMAN PENNINGTON: VERY GOOD. I DON'T
18 THINK WE HAVE A PROBLEM THERE.

19 MS. JORDAN: MR. CHAIRMAN AND BOARD
20 MEMBERS, I'D JUST LIKE TO ADD THAT ONE OF THE
21 REASONS THAT WE HAD BROUGHT THIS FORWARD AT THIS
22 TIME IS PRIMARILY, AS MR. JONES WAS SAYING, WE DO
23 HAVE TO BRING THE SCOPES OF WORK FORWARD BECAUSE
24 OF BAGLEY-KEENE.
25 AND ONE OF THE THINGS THAT WE WERE

1 TRYING TO REDUCE WAS THE TIME ELEMENT, BECAUSE WE
2 DO BRING THE CONCEPTS FORWARD AND THAT GOES INTO
3 ONE AGENDA ITEM AND IS HEARD AT A POINT IN TIME
4 AND CAN TAKE SEVERAL MONTHS TO BE GONE THROUGH.
5 BUT THE ADDITIONAL STEP TO BRING BACK
6 THE SCOPE OF WORK ONCE A CONCEPT WAS APPROVED
7 TAKES QUITE A BIT LONGER. AND THAT WAS OUR
8 ATTEMPT TO TRY TO STREAMLINE AND MAKE THE PROCESS
9 A LITTLE BIT MORE EFFICIENT, WITH REGARDS TO YOUR
10 TIME AND STAFF'S -- THE RESOURCE TIME.

11 MEMBER RHOADS: I UNDERSTAND THAT. BUT I DON'T
12 THINK THE SCOPE OF WORK HAS TO GO TO A PUBLIC
13 MEETING AND BE APPROVED BY THE BOARD. IN MOST
14 ORGANIZATIONS MANAGEMENT - -

15 MS. JORDAN: AND IN MOST
16 ORGANIZATIONS THAT MIGHT BE TRUE. THAT WAS
17 APPROVED IN THE PAST BY THE BOARD AS PART
18 OF THE PROCESS.

19 MEMBER RHOADS: I THINK IT'S PROBABLY TRUE WITH
20 ALL AGENCIES, EXCEPT MAYBE FOR THIS ONE PERHAPS.

21 CHAIRMAN PENNINGTON: OKAY. SO YOU'LL GO
22 WORK ON THIS A LITTLE BIT MORE, AND WE'LL SEE WHAT
23 WE CAN DO.

24 MS. JORDAN: TRY AGAIN.

25 MEMBER EATON: COULD YOU REPORT BACK AT

1 THE NEXT BOARD MEETING-- MR. RHOADS -- ON THAT?

2 CHAIRMAN PENNINGTON: OKAY. MOVING TO ITEM NO.

3 12, REPORT ON THE FINAL OUTCOME OF THE

4 ARCHITECTURAL AND ENGINEERING CONTRACT PROCESS

5 ENHANCEMENT PROJECT.

6 AGENDA ITEM 12:

7 MS. CONRY: GOOD AFTERNOON, AGAIN.

8 THIS ITEM BROUGHT BEFORE YOU TODAY IS

9 TO PROVIDE A REPORT AS THE FINAL OUTCOME OF THE

10 ARCHITECTURAL AND ENGINEERING CONTRACTING PROCESS

11 ENHANCEMENT PROJECT.

12 THE BOARD ADMINISTERS ARCHITECTURAL

13 AND ENGINEERING SERVICES CONTRACTS, KNOWN AS A&E,

14 TO SUPPORT THE WASTE TIRE STABILIZATION AND SITE

15 CLEANUP REMEDIATION PROGRAMS.

16 DUE TO ACTIVITIES EXPERIENCED EARLIER

17 THIS YEAR WITH THE SOLICITATION OF QUALIFIED

18 CONTRACTORS THROUGH THE REQUEST FOR QUALIFICATIONS

19 PROCESS, KNOWN AS RFQ, STAFF WERE DIRECTED BY THE

20 BOARD MEMBERS TO REVIEW THE CURRENT PROCESS AND

21 ENSURE THAT THE BOARD IS ADMINISTERING A

22 PROCEDURALLY-SOUND PROCESS IN ORDER TO ATTRACT A

23 SUFFICIENT NUMBER OF RELIABLE CONTRACTORS. THIS

24 REVIEW CONSISTED OF THE FOLLOWING STEPS.

25 ONE, THE EXECUTIVE DIRECTOR, CHIEF

1 DEPUTY DIRECTOR, BOARD CHAIRMAN, AND SEVERAL BOARD
2 MEMBERS WERE INTERVIEWED BY STAFF TO SOLICIT THEIR
3 CONCERNS AND EXPECTATIONS OF THE A&E PROCESS.
4 THIS RESULTED IN THEIR DESIRE FOR
5 IMPROVED COMMUNICATION TO ENSURE THAT COMPLETE
6 SOLICITATION PACKAGES ARE SUBMITTED, THE
7 CONFIDENTIALITY OF INFORMATION PRIOR TO PUBLIC
8 ANNOUNCEMENT IS MAINTAINED, AND THAT THE AUDITED
9 FINANCIAL STATEMENT REQUIREMENT BE CHANGED.
10 TWO, THE CURRENT PROCESS WAS REVIEWED
11 BY STAFF TO IDENTIFY THE POTENTIAL FOR
12 IMPROVEMENTS AND TO ENSURE THAT ALL REQUIRED
13 LANGUAGE IS INCLUDED IN THE RFQ DOCUMENT IN
14 ACCORDANCE WITH THE STATE CONTRACTING RULES AND
15 REGULATIONS.
16 THREE, BASED ON INFORMATION GATHERED
17 IN THE INTERVIEWS A SURVEY WAS CONDUCTED AMONGST
18 CONTRACTORS THAT WERE PREVIOUSLY GIVEN THE
19 OPPORTUNITY TO PARTICIPATE IN THE LAST RFQ
20 PROCESS.
21 THE SURVEY REQUESTED INPUT OF ANY
22 DIFFICULTIES THAT MAY HAVE BEEN EXPERIENCED OR
23 PROVIDE SUGGESTIONS OF POSSIBLE IMPROVEMENTS.
24 THE RESULTS OF THE SURVEY CONCLUDED
25 THAT THE CURRENT PROCESS WAS SATISFACTORY AND THAT

1 NO MAJOR CHANGES WERE NECESSARY.
2 THE FIRST EXPRESSED SUPPORT OF
3 INCORPORATING A CHECKLIST IN THE RFQ PACKAGE
4 OUTLINING ALL INFORMATION THAT NEEDS TO BE
5 INCLUDED WHEN SUBMITTING THEIR SOQ.
6 STAFF CONDUCTED A COMPARATIVE
7 ANALYSIS OF A&E CONTRACTING PROGRAMS USED BY OTHER
8 STATE AGENCIES HAVING THE AUTHORITY TO DO A&E
9 CONTRACTS.
10 AS A RESULT OF THESE STEPS, THE
11 FOLLOWING ENHANCEMENTS WERE DETERMINED TO BE
12 NEEDED.
13 A CHECKLIST WAS DEVELOPED AND
14 INCORPORATED INTO THE RFQ PACKAGE TO SUMMARIZE AND
15 CLARIFY ALL REQUIREMENTS THAT MUST BE MET WHEN
16 CONTRACTORS SUBMIT THEIR SOQ.
17 THE AUDITED FINANCIAL STATEMENT
18 REQUIREMENT WAS CHANGED TO AUDITED OR REVIEWED
19 FINANCIAL STATEMENT.
20 AT THE TIME EACH PROPOSER'S
21 INFORMATION CONFERENCE IS HELD AS PART OF THE RFQ
22 PROCESS, AN OPPORTUNITY WILL BE GIVEN TO THE
23 PROSPECTIVE FIRMS TO ASK QUESTIONS RELATING TO THE
24 COMPLETION OF THE SOQ AND FOR STAFF TO PROVIDE
25 SUFFICIENT DETAILS TO THEM SO THAT A MORE COMPLETE

1 AND RESPONSIVE SOQ CAN BE PREPARED. ALL QUESTIONS
2 AND ANSWERS RESULTING FROM THE INFORMATION
3 CONFERENCE WILL BE MAILED TO ALL FIRMS THAT HAVE
4 REQUESTED AN RFQ TO ENSURE THAT ALL PROSPECTIVE
5 PROPOSERS RECEIVE THE SAME INFORMATION.
6 ROLES AND RESPONSIBILITIES
7 UNDER THE A&E CONTRACTING PROCESS ARE CURRENTLY
8 BEING DEFINED BY THE DEVELOPMENT OF WRITTEN
9 PROCEDURES TO BE USED BY STAFF. THESE PROCEDURES
10 SHALL INTEGRATE COORDINATION BETWEEN THE PROGRAMS,
11 CONTRACTS UNIT, AND THE LEGAL OFFICE, AND ENSURE
12 THAT PROPER CONFIDENTIALITY IS MAINTAINED IN
13 REGARD TO SUBMITTALS RECEIVED UNTIL PUBLIC AWARD
14 IS MADE.
15 STAFF WILL CONTINUE TO MONITOR AND
16 EVALUATE THE RFQ PROCESS TO ENSURE THAT THE
17 BOARD'S OBJECTIVES ARE BEING MET.
18 A FLOW CHART OF THE PROCESS IS
19 INCLUDED IN THIS ITEM AS ATTACHMENT ONE. PLEASE
20 NOTE THAT THIS ATTACHMENT HAS BEEN REVISED AND
21 DISTRIBUTED AMONG THE BOARD MEMBERS AND BOARD
22 STAFF, AND ADDITIONAL COPIES ARE AVAILABLE AT THE
23 BACK OF THE ROOM.
24 THIS CONCLUDES THE FINAL REPORT OF
25 THIS PROJECT.

1 CHAIRMAN PENNINGTON: VERY GOOD. ANY
2 QUESTIONS?

3 MEMBER FRAZEE: YES, I DO.

4 CHAIRMAN PENNINGTON: MR. FRAZEE.

5 MEMBER FRAZEE: FIRST DEALING WITH THE
6 AUDITED FINANCIAL STATEMENT. I HAD UNDERSTOOD
7 THAT THE PROBLEM THERE WAS THE QUALIFICATIONS OF
8 THE AUDITOR, NOT WHETHER IT WAS AN AUDITED
9 FINANCIAL STATEMENT OR NOT.

10 I THOUGHT THAT WE HAD SOMETHING THAT
11 SAID IT HAD TO BE ONE OF THE BIG FIVE OR BIG
12 SEVEN OR WHATEVER THEY ARE NOW, HOW MANY ARE
13 LEFT, AND DISTINGUISHING BETWEEN THAT AND JUST A
14 QUALIFIED AUDITOR. BUT THIS READS A LITTLE
15 DIFFERENT.

16 MS. SMALL: MR. FRAZEE -- SUZANNE SMALL, FOR THE
17 RECORD.

18 MR. FRAZEE, THE PROBLEM WAS JUST THAT
19 IT WAS AN AUDITED STATEMENT, IT DID NOT SPECIFY A
20 PARTICULAR BIG EIGHT OR ANY PARTICULAR AUDITING
21 FIRM, IT COULD BE ANY CPA. HOWEVER, A LOT OF THE
22 FIRMS THAT WERE ATTEMPTING TO ATTAIN THIS
23 CONTRACT DON'T HAVE AUDITED STATEMENTS AT ALL, AND
24 THAT WAS THE PROBLEM. IT WASN'T -- THERE WAS NO
25 REQUIREMENT AS TO A PARTICULAR TYPE OF AUDITOR,

1 JUST A REGULAR CPA.

2 MR. CHANDLER: WELL, SUZANNE, WASN'T THERE A
3 DISTINCTION, THOUGH, WHERE
4 WE REQUIRED THEM TO BE CERTIFIED AUDITS VERSUS
5 JUST AUDITS? AND SO IN ORDER TO GET A
6 CERTIFIED AUDIT, YOU HAD TO THEN GO OUT AND HIRE AN
7 OUTSIDE AGENCY, VERSUS YOUR OWN INTERNAL AUDIT.
8 AND WE WERE TRIPPING -- SOME FELT THEY WERE
9 TRIPPING OVER THAT WORD "CERTIFIED."

10 MS. SMALL: A CERTIFIED AUDIT, AN AUDITED
11 FINANCIAL -- THE CERTIFIED STATEMENT THAT WE'RE
12 LOOKING FOR INDICATES THAT YOU HAVE TO USE A CPA.
13 YOU COULD USE YOUR CPA IN-HOUSE, IF YOU HAD AN IN-
14 HOUSE CPA THAT WAS QUALIFIED TO DO AUDITS. BUT
15 THE PEOPLE THAT WE'RE DEALING WITH AREN'T HAVING
16 AN AUDIT AT ALL.
17 AND THE DIFFERENCE BETWEEN AN AUDITED
18 REVIEW, AN AUDITED STATEMENT, AND A REVIEWED
19 STATEMENT IS, WHEN IT'S AUDITED THE CPA SIGNS
20 STATING THAT THEY VOUCH FOR ALL THE INFORMATION IN
21 THAT PACKAGE, AND EVERYTHING THAT SUPPORTS IT.
22 SO THEY HAVE GONE THROUGH ALL OF THE
23 BALANCE SHEETS. THEY HAVE GONE THROUGH ALL OF THE
24 INCOME STATEMENTS. THEY HAVE GONE THROUGH
25 EVERYTHING. AND THAT FINAL STATEMENT IS SITTING ON

1 THEIR REGISTRATION AS AN AUDITOR. WHEN IT'S A
2 REVISED STATEMENT, WHAT THEY'RE SAYING IS WE HAVE
3 REVIEWED WHAT THEY HAVE GIVEN US HERE IN THESE
4 DOCUMENTS. AND WE SAY THAT THIS IS ACCURATE. SO
5 THAT'S THE DIFFERENCE. AND THE FIRST -- THE
6 AUDITED STATEMENT IS VERY EXPENSIVE TO PROCURE.

7 MR. CHANDLER: SO WE'RE
8 ASKING NOT FOR JUST REVIEWED STATEMENTS, WE'RE
9 ASKING FOR FULLY-AUDITED STATEMENTS.

10 MS. SMALL: NO. THAT'S WHAT WE ASKED FOR
11 LAST YEAR, AT THE BEGINNING OF THE PROCESS. THE
12 PROPOSERS WERE NOT ABLE TO COMPLY WITH THAT. SO IN
13 MIDSTREAM, WE CHANGED IT BACK TO WHAT WE HAD USED
14 FOR ALL PREVIOUS SOLICITATIONS, WHICH WAS AUDITED
15 OR REVIEWED.

16 AND NOW, WE'RE REINSTITUTING AUDITED
17 OR REVIEWED FOR ALL OUR UPCOMING CONTRACTS.

18 MR. CHANDLER: OKAY.

19 MEMBER FRAZEE: SO WHAT IS THE QUALIFICATION OF
20 A REVIEWER VERSUS AN AUDITOR, THEN?

21 MS. SMALL: AN ACCOUNTANT, A CPA. IT'S
22 JUST THEY'RE DOING A DIFFERENT TYPE OF WORK.

23 MEMBER FRAZEE: BUT THERE ARE AUDITORS THAT ARE
24 NOT CPAS ALSO?

25 MS. SMALL: YES, THERE ARE AUDITORS THAT

1 ARE NOT CPAS.

2 MEMBER FRAZEE: INTERNAL AUDITORS? AND DOES
3 THAT--

4 MS. SMALL: INTERNAL AUDITORS.

5 MEMBER FRAZEE: -- QUALIFY THEN AS A REVIEWED
6 STATEMENT?

7 MS. SMALL: NO. THE ONLY AUDITORS THAT I
8 KNOW OF THAT ARE INTERNAL, THAT ARE JUST DOING
9 INTERNAL WORK, THEY ARE NOT DOING THE FINANCIAL
10 STATEMENT FOR THE COMPANY THAT WE WOULD BE
11 ACCEPTING. WHEN WE WANT THE REVIEWED OR THE
12 AUDITED, IT'S GOING TO BE BY A CPA.

13 MEMBER FRAZEE: OKAY. OKAY.

14 CHAIRMAN PENNINGTON: WE STATE THAT, IT
15 HAS TO BE A CPA?

16 MS. SMALL: IT DOESN'T STATE THAT. THAT'S
17 UNDERSTOOD LANGUAGE IN THE INDUSTRY. AS FAR AS I
18 KNOW, WE'VE NEVER HAD A PROBLEM.
19 WHEN YOU SAY "AUDITED," I THINK
20 EVERYONE IN THE CONSTRUCTION INDUSTRY UNDERSTANDS
21 WHAT THAT MEANS. WHEN YOU SAY "REVIEW," I THINK
22 EVERYONE IN THE CONSTRUCTION INDUSTRY KNOWS WHAT
23 THAT MEANS AS WELL. WE HAVEN'T HAD ANY PROBLEMS
24 WITH QUESTIONS ON THAT. AND WE HAVE USED THAT
25 LANGUAGE FOR ALL FIVE YEARS THAT THIS CONTRACT'S

1 GONE OUT.

2 MEMBER FRAZEE: THE OTHER QUESTION I HAD DEALS
3 WITH SOMETHING THAT'S USED IN CONSTRUCTION
4 CONTRACTS -- FOR LACK OF ANOTHER TERM, A BIDDER'S
5 CONFERENCE. AND IT SEEMS LIKE THAT THERE WOULD BE
6 SOME VALUE IN THIS RFQ PROCESS, ALSO, FOR THAT
7 STEP. WHERE IT ALLOWS ALL PARTIES TO GET TOGETHER
8 AND HAVE THE PROPOSAL EXPLAINED TO THEM ALL AT ONE
9 TIME IN PLAIN LANGUAGE, VERSUS THE QUESTIONS THAT
10 ARISE IN LOOKING AT PROPOSAL DOCUMENTS.
11 IS THAT ONE THAT'S BEEN GIVEN ANY
12 THOUGHT, OR --

13 MS. CONRY: YES. THAT IS
14 BEING DONE. THAT IS A STANDARD STEP TO THE
15 PROCESS--

16 MEMBER FRAZEE: THAT'S ALREADY INCLUDED.

17 MS. CONRY: IT'S A PROPOSER'S INFORMATION
18 CONFERENCE. AND IT GIVES THE PROPOSERS AN
19 OPPORTUNITY TO ASK QUESTIONS AND GET CLARIFICATION
20 PRIOR TO COMPLETING THEIR STATEMENT OF
21 QUALIFICATIONS.

22 WHAT WE'RE ADDING AS AN ENHANCEMENT
23 TO THAT STEP, DURING THAT CONFERENCE WE ARE GOING
24 TO ASSURE THAT THE REQUIREMENTS TO COMPLETE A
25 STATEMENT OF QUALIFICATION IS COVERED, AND THAT

1 IT'S CLEARLY UNDERSTOOD TO THE PROPOSERS, ALL THE
2 REQUIREMENTS AND DOCUMENTATION THAT NEEDS TO BE
3 INCLUDED. SO ALL OF THAT GETS SUMMARIZED AGAIN,
4 ALONG WITH THE CHECK LIST THAT'S GOING TO BE ADDED
5 TO THE RFQ PACKAGE.

6 SO THAT WAY IT'S JUST AN ADDED STEP
7 TO HELP ENSURE THAT WE HAVE A COMPLETE PACKAGE TO
8 SOLICIT AND QUALIFY CONTRACTORS.

9 MEMBER FRAZEE: BECAUSE I REMAIN SENSITIVE TO
10 THE ISSUE THAT CAME UP OVER THE REQUIREMENT FOR A
11 CONTRACTOR'S LICENSE WITHOUT STATING WHICH
12 CONTRACTOR'S LICENSE IT WAS. AND IT SEEMS LIKE A
13 LOT OF THOSE THINGS CAN BE OVERCOME IN THE
14 CONFERENCE PROCESS WHERE IT'S MADE VERY CLEAR
15 WHICH ONE IS EXPECTED.

16 MS. CONRY: AS A MATTER OF FACT, THAT IS
17 ONE OF THE ITEMS THAT WE'VE ADDED TO THE CHECK
18 LIST AND IDENTIFIED IN THE BOILER PLATE LANGUAGE,
19 THE TYPE OF LICENSING THAT'S REQUIRED.

20 MEMBER FRAZEE: OKAY. THANK YOU.

21 CHAIRMAN PENNINGTON: MR. JONES.

22 MEMBER JONES: MR. CHAIRMAN, JUST A
23 SUGGESTION THAT I HAD IN MY BRIEFING IS, THAT ANY
24 QUESTIONS THAT WERE ASKED AT THE INFORMATION
25 BRIEFING, AS PART OF THE STAFF, WHEN YOU DO THE

1 SUMMARY, INCLUDE THE QUESTIONS AND THE ANSWERS SO
2 THAT EVERYBODY GETS THEM. IF SOMEBODY WAS OUTSIDE
3 AND ASLEEP, THEY DON'T HAVE ANY REASON TO NOT KNOW
4 WHAT EVERYBODY WAS TOLD. AND I THINK IF THAT'S
5 ADDED THAT JUST -- IT ENSURES THAT EVERYBODY'S
6 PLAYING FROM THE SAME DECK OF CARDS.

7 MS. CONRY: RIGHT. WE WILL BE DOING
8 THAT AND SENDING IT TO EVERYONE THAT RECEIVED A
9 RFQ PACKAGE. BECAUSE LOTS OF TIMES THEY CAN'T
10 ALWAYS MAKE IT TO THE CONFERENCE AND THAT WAY
11 EVERYBODY GETS THE SAME INFORMATION.

12 CHAIRMAN PENNINGTON: OKAY. VERY GOOD,
13 THANK YOU.

14 I KNOW YOU HAVE -- A LOT CAME UP ALONG THE
15 WAY. BUT WE DO HAVE TO TAKE ABOUT A HALF HOUR TO GO
16 INTO A CLOSED SESSION.
17 AND THAT'S -- WE'LL BE BACK OUT, THEN WE'LL TAKE THE ITEM
18 AT THAT POINT.

19 (OFF THE RECORD. RECESS TAKEN.)

20 MS. DELMATIER: I'LL START. AND WE MAY BE
21 RESERVING TESTIMONY ON THE OTHER IS SUES. BUT I'D LIKE TO
22 GET US REFOCUSED ON THE CENTRAL ISSUE, IF I MIGHT.

23 CHAIRMAN PENNINGTON: SURE.

24 MS. DELMATIER: AS MR. JONES ALLUDED, AND AS MR.
25 RHOADS IS AWARE FROM READING THE TESTIMONY -- DID I

1 IDENTIFY MYSELF? I PROBABLY DIDN'T. GOT DISTRACTED BY
2 THE CHAIRMAN.

3 DENISE DELMATIER WITH THE GUALCO GROUP.

4 MEMBER EATON: YOU'RE NOT NEW HERE.

5 MS. DELMATIER: NO. NO. DENISE DELMATIER WITH
6 THE GUALCO GROUP, ON BEHALF OF NORCAL WASTE SYSTEMS.

7 AS THE BOARD IS AWARE, AT THE AUGUST 26

8 HEARING ON THE PROPOSED PROJECT, THE CITY OF ARCATA
9 COMMITTED TO RATIFY THE ADDENDUM. AND THE ADDENDUM,
10 OF COURSE, INCLUDED THE CHANGE OF DESCRIPTION ON THE
11 PROJECT.

12 IT IS WITH THAT COMMITMENT THAT THE BOARD THEN TOOK
13 ACTION AT ITS SEPTEMBER 17 HEARING. THE RESOLUTION THAT
14 THE BOARD UTILIZED IN CERTIFYING THAT CEQA WAS IN FACT
15 COMPLETE, MADE SPECIFIC REFERENCE TO THE INTENT AND THE
16 COMMITMENT AND THE AGREEMENT THAT THE CITY OF ARCATA
17 WOULD IN FACT RATIFY THE PROJECT DESCRIPTION IN THE
18 ADDENDUM.

19 SUBSEQUENT TO THE SEPTEMBER 17 HEARING, I HAD
20 PROVIDED THE BOARD MEMBERS SEVERAL NEWS ARTICLES,
21 WRITTEN CORRESPONDENCE FROM MR. KIND'S FATHER, AS WELL AS
22 PUBLIC TESTIMONY VIA TRANSCRIPT THAT INDICATES THAT THE
23 CITY OF ARCATA IS QUESTIONING AT THIS POINT IN TIME
24 WHETHER THERE IS
25 INDEED A REQUIREMENT OR UNDERSTANDING OR COMMITMENT

1 THAT THEY IN FACT RATIFY THE CHANGE IN PROJECT DESCRIPTION
2 IN THE ADDENDUM. AND I THINK THE BOARD IS WELL AWARE OF
3 WHAT THAT COMMITMENT WAS.

4 ESSENTIALLY, WE CONVINCED THE BOARD TO ACT TODAY
5 BASED UPON THAT UNDERSTANDING, AND WE HAVE ASKED THE
6 BOARD TO RECONSIDER BASED UPON THAT COMMITMENT BY THE
7 CITY OF ARCATA.

8 IT WAS CERTAINLY CERTAIN BOARD MEMBERS' UNDERSTANDING,
9 AND CERTAINLY CERTAIN MEMBERS OF THE PUBLIC
10 FROM THE AUGUST 26 HEARING, THAT INDEED THE CITY OF ARCATA
11 WAS GOING TO RATIFY THE PROJECT DESCRIPTION PRIOR TO THE
12 BOARD ACTING ON THE PROJECT, AND CONCURRING IN THE SOLID
13 WASTE FACILITY PERMIT. AND AS I PROVIDED, THERE WERE A
14 COUPLE OF MEETING DATES IN WHICH THE CITY HAD IN FACT AMPLE
15 OPPORTUNITY IN WHICH A QUORUM WAS PRESENT TO, INDEED
16 RATIFY THE CHANGE IN PROJECT DESCRIPTION, ON SEPTEMBER 2ND
17 AND SEPTEMBER 16, PRIOR TO THE BOARD'S HEARING ON SEPTEMBER
18 17.

19 NOW, WE ALL KNOW THAT THERE ARE TIMES WHEN A
20 PUBLIC AGENCY, BECAUSE OF CERTAIN CONSTRAINTS -- WHETHER WE
21 DON'T HAVE A COMPLETE COMPLEMENT OF ELECTED OFFICIALS OR
22 BOARD APPOINTMENTS, OR CERTAIN CIRCUMSTANCES BEYOND
23 CONTROL, WHERE A QUORUM CANNOT BE PRESENT. AND, IN FACT, THAT
24 OCCURRED ON SEPTEMBER 10, THROUGH NO FAULT OF ANYONE. AND
25 WHEN A QUORUM ISN'T PRESENT YOU HAVE NO ABILITY TO ACT.

1 BUT, INDEED, AT SEPTEMBER 2 AND SEPTEMBER 16, A QUORUM WAS
2 PRESENT.

3 SUBSEQUENT TO THE SEPTEMBER 17 HEARING, THERE
4 WERE ADDITIONAL OPPORTUNITIES WHEREBY THE CITY OF ARCATA HAD
5 AMPLE OPPORTUNITY BY WHICH TO ACT ON THE COMMITMENT TO ADOPT
6 THE ADDENDUM AND RATIFY THE ADDENDUM WITH A CHANGE OF
7 PROJECT DESCRIPTION. THEY AGENDIZED THE ITEM, AS WE KNOW,
8 ON OCTOBER 7 AND FAILED TO RATIFY.

9 WE HAVE PROVIDED THE BOARD WITH QUOTATION
10 FROM THE MAYOR, THAT THE MAYOR ANNOUNCED AT THAT HEARING,
11 QUOTE: "NOBODY WAS INTERESTED IN MAKING A MOTION, SO WE
12 DON'T TAKE ANY MOTION. AND THE ITEM IS DEAD." IT WAS NOT
13 PUT OVER IT WAS NOT CONTINUED. THE MAYOR IDENTIFIED THAT THE
14 ITEM IS DEAD.

15 SUBSEQUENT TO THAT HEARING, WE PROVIDED THE
16 MEMBERS OF THIS BOARD INDICATION THAT, INDEED, THE CITY OF
17 ARCATA WAS NOT FOLLOWING THROUGH ON ITS EARLIER COMMITMENT
18 THAT APPARENTLY A POSITION OF THAT WAS THEN. AND THIS IS NOW
19 ATTITUDE HAD BEEN ADOPTED. AND THE CITY DECIDED, FOR
20 REASONS THAT THEY'VE IDENTIFIED IN THEIR CORRESPONDENCE AND
21 IN THEIR PUBLIC TESTIMONY THAT, IN FACT, THEY DIDN'T NEED TO
22 FOLLOW THROUGH ON THEIR END OF THE BARGAIN.

23 WE HAVE A SUBSEQUENT HEARING ON OCTOBER 21.

24 NO ACTION WAS TAKEN.

25 FINALLY, WHEN THE BOARD AGENDIZED THIS ITEM

1 FOR RECONSIDERATION, IT'S AT THAT TIME THAT THE JPA ASKED
2 THAT THE CITY AGAIN AGENDIZE THE RATIFICATION OF THE PROJECT
3 DESCRIPTION. THE CITY DIDN'T DO IT ON ITS OWN. THE WA,
4 THROUGH MR. KINSFATHER, REQUESTED THAT THIS ITEM BE
5 AGENDIZED. THAT WAS LAST NIGHT.
6 AT ALL OF THESE HEARINGS, THE CITY HAD
7 OPPORTUNITY TO FOLLOW THROUGH ON ITS END OF THE COMMITMENT,
8 ON ITS END OF THE BARGAIN AND, IN FACT, RATIFY THE ADDENDUM.
9 THAT'S WHAT THEY AGREED TO. THAT'S WHAT THEY PROMISED YOU.
10 AND THAT'S WHAT THEY HAVE FAILED TO DO.
11 WE ASK THAT THE BOARD LOOK BACK ON AND
12 REFLECT ON THE COMMITMENT THAT WAS MADE IN CERTIFYING THAT
13 THE CEQA DOCUMENT WAS ADEQUATE, BECAUSE IN FACT THE CITY
14 REPRESENTED THAT IT WAS, AND THEY WOULD IN FACT RATIFY THE
15 PROJECT DESCRIPTION. THEY DIDN'T DO IT. THEY DIDN'T HOLD UP
16 THEIR END OF THE BARGAIN. AND, QUITE FRANKLY, WHY THEN
17 SHOULD YOU BE LEFT HOLDING THE BAG HERE?
18 WE AGREE WITH THE PROPONENTS WHO IDENTIFY IN
19 THEIR LETTER TODAY -- WHICH WE SAW THIS AFTERNOON -- ENOUGH
20 IS ENOUGH. THEY HAVEN'T FOLLOWED THROUGH. IT'S TIME FOR YOU
21 TO TAKE THE APPROPRIATE ACTION.
22 WE ASKED FOR RECONSIDERATION, WHICH YOU
23 GRANTED. AND WE WOULD ASK FOR A RECISION OF CERTIFICATION OF
24 THE CEQA DOCUMENT. AND ONCE YOU DO THAT, OF COURSE, THE
25 SOLID WASTE FACILITY PERMIT CONCURRENCE IS NO LONGER IN

1 EFFECT. WE ASK FOR TWO MOTIONS.

2 I AM GOING TO HAVE MR. JACOBS FROM THE

3 HOWARD, RICE FIRM WALK THROUGH AND GIVE YOU A BRIEF ANALYSIS

4 ON THE APPROPRIATE LEGAL JUSTIFICATION AND AUTHORITY FOR YOU

5 TO DO THE TWO THINGS THAT WE JUST ASKED.

6 MR. JACOBS: MR. CHAIRMAN AND BOARD MEMBERS, MY

7 NAME IS RICHARD JACOBS. I'M WITH THE LAW FIRM OF HOWARD,

8 RICE, NEMEROVSKI, CANADY, FALK & RABKIN, ONE OF THE LONGEST

9 NAMES IN ALL OF THE STATE OF CALIFORNIA. AND OUR FIRM IS

10 LAND USE ENVIRONMENTAL COUNSEL FOR BOTH NORCAL WASTE SYSTEMS

11 AND CITY GARBAGE OF EUREKA.

12 I PROVIDED YOU WITH A MEMORANDUM WITH MY

13 ANALYSIS OF THE REASONS WHY YOU HAVE THE AUTHORITY AND WHY

14 YOU SHOULD, IN FACT, RESCIND BOTH YOUR CEQA CERTIFICATION

15 AND YOUR CONCURRENCE IN THE SOLID WASTE FACILITIES PERMIT.

16 AND SO FOR THAT REASON, AND BECAUSE THE HOUR IS GETTING

17 LATE, I DON'T WANT TO TAKE THE TIME TO GO BACK THROUGH THAT

18 PROCESS AND EXPLAIN THAT MEMO TO YOU BUT SIMPLY TO

19 INDICATE THAT I'LL BE GLAD TO ANSWER ANY QUESTIONS YOU MAY

20 HAVE ABOUT THAT DOCUMENT.

21 CHAIRMAN PENNINGTON: THANK YOU.

22 ANY QUESTIONS OF THE WITNESS HERE?

23 MR. JACOBS: THANK YOU.

24 CHAIRMAN PENNINGTON: I GUESS WE ALL UNDERSTAND

25 IT. THANK YOU.

1 MS. DELMATIER: MR. CHAIRMAN, I'M SOMEWHAT AT A
2 QUANDARY HERE, BECAUSE I'M NOT SURE HOW TO PROCEED. AND IF
3 YOU COULD PROVIDE ME WITH A LITTLE GUIDANCE, WE'LL PROCEED
4 ACCORDINGLY.

5 CHAIRMAN PENNINGTON: SURE. WELL, WE HAVE SEVERAL PEOPLE
6 WHO HAVE INDICATED THAT THEY WANTED TO ADDRESS US. SO
7 LET'S GO THROUGH THOSE AND --

8 MS. DELMATIER: FROM THE PROPONENT'S SIDE OF THE
9 RECONSIDERATION, OR ARE YOU REFERRING TO OUR ADDITIONAL
10 FOLKS?

11 CHAIRMAN PENNINGTON: YOU HAVE ADDITIONAL FOLKS,
12 AND--

13 MS. DELMATIER: AND THEN THE RESIDENTS.

14 CHAIRMAN PENNINGTON: THEN THE OTHER FOLKS,
15 TOO.

16 MS. DELMATIER: THE ISSUES THAT WE JUST -- PRIOR
17 TO MY COMING UP TO THE PODIUM THAT WERE DISCUSSED
18 EXTENSIVELY, HAD TO DO WITH A NUMBER OF ALLEGATIONS
19 REGARDING SOIL CONTAMINATION. AND BECAUSE THE PROPONENTS OF
20 THE PROJECT HAVE ENGAGED IN A LENGTHY DISCUSSION ON THAT
21 SUBJECT MATTER, IT WAS NOT OUR INTENT TO ENGAGE IN THEM.
22 HOWEVER, THIS IS A PUBLIC HEARING. AND WE ARE ESTABLISHING
23 A RECORD HERE.

24 SO, IF THAT'S AN ISSUE THAT THE BOARD
25 CONSIDERS AN ITEM OF INTEREST FOR PURPOSES OF TODAY AND WE

1 NEED TO RESPOND, THEN WE WILL PRESENT THAT TESTIMONY. IF
2 THE BOARD WANTS TO NARROW THE SCOPE OF THE CONSIDERATION TO
3 THE FACT THAT THE CITY OF ARCATA HAS OR HAS NOT RATIFIED THE
4 ADDENDUM, THEN WE CAN MOVE TOWARD THAT DIRECTION. SO I'M A
5 LITTLE BIT UNSURE, BECAUSE WE'VE GOT QUITE A BIT OF
6 TESTIMONY, NEEDLESS TO SAY, ON THE SOILS ISSUE.

7 CHAIRMAN PENNINGTON: WELL, I THINK IT'S THE
8 INTEREST OF THE BOARD TO AT LEAST EXPLORE BOTH ISSUES. SO
9--

10 MS. DELMATIER: OKAY. THEN MR. GAMBELIN, FROM
11 NORCAL WASTE SYSTEMS, WILL STEP FORWARD AND PROVIDE
12 DOCUMENTATION ON THE SOILS ISSUE.

13 CHAIRMAN PENNINGTON: OKAY. COULD I ASK YOU,
14 BEFORE YOU LEAVE TONIGHT, TO FILL OUT A THING FOR EACH ONE
15 OF THESE PEOPLE SO WE HAVE IT IN OUR RECORD AND SO THAT SHE'S
16 GOT THE PROPER SPELLINGS?

17 MR. GAMBELIN: GOOD EVENING, NOW. DONALD GAMBELIN
18 WITH NORCAL WASTE SYSTEMS. AND LET ME TALK ABOUT THE SOIL
19 ISSUE.

20 AS WE HEARD FROM THE PROJECT PROPONENT AND
21 THE CITY, IT SEEMS THAT EVERYBODY WAS PRETTY CERTAIN THAT IT
22 WOULD BE EXPECTED THAT -- TO HAVE SOIL CONTAMINATION ON A
23 SITE THAT WAS USED AS IT HAS BEEN IN THE PAST.

24 AND, IN FACT, THE SUBMITTAL THAT YOU HAD FROM
25 WASHBURN, BRISCOE & MCCARTHY STATES THAT UNDER THE CATEGORY

1 OF THE SOILS CONTAMINATION ISSUE IS YET ANOTHER RED HERRING
2 CREATED BY NORCAL. THERE S A STATEMENT IN THERE THAT SAYS,
3 FIRST, THAT SOIL ON SITE COULD CONTAIN LOW LEVELS OF CONTAMINANTS
4 IS NOT IN THE LEAST SURPRISING, SINCE THE SITE HAS BEEN USED
5 FOR MANY YEARS FOR INDUSTRIAL PURPOSES.
6 SO, AGAIN, IT WAS TO NOBODY'S SURPRISE THAT
7 THE SITE WAS CONTAMINATED, REGARDLESS -- AS THE PROPONENT
8 CONTENDS -- IF IT WAS COVERED EXACTLY BY THE PHASE ONE,
9 PHASE TWO, OR PHASE THREE. EVERYBODY RECOGNIZED THAT THERE
10 WAS THE LIKELIHOOD OF CONTAMINATION WHEREVER THEY WERE GOING
11 TO PUT THIS BUILDING WHEN THEY CONSTRUCTED IT.
12 SO IF THEY RECOGNIZED THAT, WHY WASN'T IT
13 DISCLOSED IN THE ENVIRONMENTAL DOCUMENT AS IT SHOULD HAVE
14 BEEN? AND, IN FACT, WHY -- IF EVERYBODY RECOGNIZED IT, IT
15 SHOULD HAVE BEEN DISCLOSED. NOW, WAS THERE A SPECIFIC CHECK
16 MARK IN CEQA THAT SAYS DO YOU HAVE CONTAMINATION ON SITE
17 THAT YOU NEED TO DEAL WITH? I DON'T KNOW THAT THERE IS IN
18 THE INITIAL STUDY CHECKLIST USE.
19 HOWEVER, THEY ARE OBLIGATED IF THEY IN FACT
20 DO HAVE KNOWLEDGE OF POTENTIAL CONTAMINATION TO DISCLOSE IT
21 AS AN EXISTING CONDITION, TO DISCLOSE IT IN THE PROJECT
22 DESCRIPTION, TO MAKE IT KNOWN THAT THE SITE WAS PREVIOUSLY
23 SUBJECT TO CLEANUP, TO A PHASE ONE, PHASE TWO, PHASE THREE
24 SO THAT THE PUBLIC IS ALLOWED, AS PART OF THE PROCESS ON THE
25 MITIGATED NEG DEC, TO HAVE THE BENEFIT OF REVIEWING THAT

1 PHASE ONE, PHASE TWO, PHASE THREE INFORMATION.

2 NOW, I DO POINT OUT THAT SINCE THAT PHASE ONE

3 AND PHASE TWO CAME UP ON SEPTEMBER 3RD IN THE WA'S HEARING,

4 CITY GARBAGE COMPANY HAS REQUESTED THAT THROUGH THE PUBLIC

5 RECORDS ACT AND HAS YET TO RECEIVE THAT. WHAT ARE WE NOW,

6 TWO MONTHS LATER? APPARENTLY, THEY'RE PRETTY WELL BOOKED UP

7 IN TRYING TO GET PEOPLE COPIES AND GET THE PUBLIC

8 INFORMATION THAT IS REQUESTED.

9 NOW, GIVEN THAT THERE'S THE POTENTIAL THAT AS

10 YOU'RE EXCAVATING THE SITE, AS YOU'RE DOING WORK, SO ON AND

11 SO FORTH YOU'RE GOING TO RUN INTO CONTAMINATION AND YOU'RE

12 GOING TO HAVE IS SUES WITH THAT.

13 WE, IN FACT -- I KNOW THERE'S A WAY TO

14 MAGNIFY IT BUT I -- DENISE'LL HELP ME OUT HERE.

15 YOU CAN SEE THEIR COMMENT NUMBER 23, WHICH

16 WAS THEE COMMENT NUMBER ASSIGNED TO IT BY THE LEAD AGENCY,

17 CITY GARBAGE COMPANY HAD RAISED IN THE INITIAL COMMENTS ON

18 THE MITIGATED NEG DEC: "IN THE EXCAVATIONS FOOTINGS, COULD

19 THAT RESULT IN DISCHARGE TO GROUND WATER?"

20 NOW, SPECIFICALLY WHAT THAT MEANS IS, WHEN YOU DIG UP DIRTY

21 SOIL. ARE YOU GOING TO BE CONTAMINATING GROUND WATER THAT'S

22 WITHIN SIX INCHES, A FOOT, MAYBE TWO FEET ON SITE. AND, IN FACT,

23 WHEN YOU DIG DOWN THREE FEET, AS THEY DID, YOU'RE PROBABLY

24 LIKELY CONTAMINATING THAT.

25 AGAIN, THE ISSUE RIGHT THEN AND THERE WAS

1 IGNORED BECAUSE THE RESPONSE TO COMMENTS SIMPLY CONTAINED:
2 "NO DISCHARGES DURING CONSTRUCTION BECAUSE CONSTRUCTION WILL
3 OCCUR DURING THE DRY SEASON, AUGUST TO SEPTEMBER" WELL, WE
4 MISSED THAT. "BUT THE FOOTINGS AND FOUNDATION WILL BE
5 DESIGNED TO RESIST DISCHARGE," WHATEVER THAT MIGHT MEAN.
6 SO, ANYWAY, THE ISSUE WAS RAISED. AND I KNOW
7 SOME -- AND FRANKLY, FOR THE PUBLIC TO HAVE TO RAISE IT,
8 WHEN IN FACT THE LEAD AGENCY, THE APPLICANT, EVERYBODY KNEW
9 THAT IT LIKELY EXISTED, IS A LITTLE DISTURBING, BECAUSE IT
10 SHOULD HAVE BEEN DISCLOSED IN THE PROJECT DESCRIPTION AND
11 THE EXISTING CONDITIONS.
12 LET ME, IF I CAN, TALK A LITTLE BIT ABOUT THE
13 CONTAMINATION THAT'S OUT THERE NOW AND HOW IT'S BEEN
14 HANDLED AND, ACTUALLY, THE DEBACLE THAT IT IS.
15 I DON'T KNOW IF ANY OF YOU MIGHT BE AWARE OF
16 HOW YOU NORMALLY HANDLE A CONTAMINATED SITE. BUT IT GOES
17 SOMETHING LIKE THIS. AS THE PROPERTY OWNER, PROJECT
18 PROPONENT, APPLICANT, SO ON AND SO FORTH, IF YOU HAVE
19 KNOWLEDGE OF CONTAMINATION, IT'S YOUR RESPONSIBILITY TO WORK
20 WITH THE COUNTY AGENCY TO ADDRESS THAT CONTAMINATION AND
21 WHAT IS GOING TO BE DONE WITH IT.
22 ESSENTIALLY, HERE IN MY MIND, I KIND OF
23 STEPPED BACK AND SAID, YOU KNOW, MAYBE THIS IS SIMILAR TO IF
24 YOU'VE HEARD FROM EPA THAT A BROWN FIELD PROGRAM, WHERE
25 THEY'RE TRYING TO DEVELOP OLD INDUSTRIAL SITES.

1 WELL, AS YOU KNOW, IT'S OFTEN A LENGTHY
2 PROCESS TO GO THROUGH TO DETERMINE WHAT IS THE NATURE AND
3 EXTENT OF THE CONTAMINATION OUT THERE. HOW IS IT GOING TO
4 BE DISTURBED BY OUR PROJECT? DOES IT NEED TO BE CLEANED UP
5 PRIOR TO THE PROJECT BEING IMPLEMENTED? CAN IT BE LEFT IN
6 PLACE? IS IT A PUMP AND TREAT? IS IT EXCAVATION? IS THERE
7 GOING TO BE EXPOSURE TO THE ENVIRONMENT, TO WORKERS
8 CONSTRUCTING THE SITE, TO THE PUBLIC WHEN THEY START TO USE
9 THE SITE? THAT'S CALLED A WORK PLAN, AND IT'S REQUIRED.
10 AND, IN FACT, WE HAVE A SITE IN THE COUNTY OF
11 HUMBOLDT, THE CITY GARBAGE COMPANY TRANSFER SITE, THAT HAS
12 SOME CONTAMINATION UNDER IT THAT WAS IDENTIFIED A FEW YEARS
13 AGO IN A WELL. AND BY THE COUNTY, WE ARE BEING REQUIRED TO
14 GO THROUGH AND ADDRESS THE NATURE AND EXTENT, PREPARE A WORK
15 PLAN, AND TRY AND FIGURE OUT, TO ANSWER TO THE COUNTY AND TO
16 THE WATER BOARD EXACTLY WHAT'S GOING ON THERE, WHERE THE
17 CONTAMINATION CAME FROM, AND HOW IT'S GOING TO BE ADDRESSED.
18 WHY THE COUNTY IS NOT REQUIRING THIS ON THIS SITE IS
19 UNBEKNOWNST TO ME.
20 SO ESSENTIALLY WHAT HAPPENED ON THIS SITE IS,
21 RATHER THAN STEPPING BACK AND SAYING WE HAVE SITE
22 CONTAMINATION, AND IDENTIFYING THAT, AND ALLOWING THAT TO
23 BECOME PART OF THE MITIGATED NEG DEC, AND ADDRESSING THAT
24 FROM AN ENVIRONMENTAL IMPACT, IT WAS COVERED UP.
25 THEN WHEN THEY DID) DISCOVER IT DURING THE

1 EXCAVATION AND -- IF YOU KNOW IT'S THERE, AND YOU DIRECT
2 YOUR CONTRACTOR TO HAUL, AND TO HAUL ILLEGALLY, TO CUMMINGS
3 ROAD LANDFILL TO TRY AND DISCHARGE IT, THAT'S A PROBLEM AT
4 OUR LANDFILLS. AND THE REASON IT WAS REJECTED IS BECAUSE WE
5 HAVE A WASTE ACCEPTANCE PROGRAM THAT DOES NOT JUST TAKE SOIL
6 OFF THE STREET FROM ANYBODY, ESPECIALLY FROM AN INDUSTRIAL
7 SITE. AND THE SOIL WAS IDENTIFIED WHERE IT WAS COMING FROM.
8 AND TYPICALLY WE IMMEDIATELY, AS WE DID IN
9 THIS CASE, SAID WE DON'T HAVE ANY PROBLEM TAKING IT, BUT WE
10 NEED TO KNOW WHAT'S IN IT. LET US KNOW WHAT'S IN IT.
11 AGAIN, NO RESPONSE. NOW, WERE THEY TRYING TO HIDE WHAT WAS
12 IN IT BECAUSE THEY SIMPLY DIDN'T WANT THAT DISCLOSED? I
13 QUESTION THAT.
14 AS FAR AS WHAT'S HAPPENED SINCE THEN, THE
15 SOIL GOT EXCAVATED FROM THE SITE. AND, AGAIN, WERE WORKERS
16 EXPOSED, WAS THE PUBLIC EXPOSED? WAS, BECAUSE THEY WERE
17 ACTUALLY EXCAVATING IN GROUND WATER, WERE THERE DISCHARGES
18 TO GROUND WATER NOW? A LOT OF THESE QUESTIONS STILL REMAIN
19 UNANSWERED.
20 AND, IN FACT, THE COUNTY RESPONDED, WHEN MR.
21 KINSFATHER TOLD THE COUNTY THAT THEY HAD CONTAMINATION,
22 THAT, OH, IT SEEMS LIKE LOW LEVELS, HERE'S SOME OPTIONS FOR
23 YOU. YOU CAN DISPOSE OF IT. PERHAPS YOU CAN RE-USE IT.
24 PERHAPS YOU CAN ACTUALLY LEAVE IT ON SITE OR PUT IT BACK IN
25 PLACE AND COVER IT UP WITH ASPHALT OR SOMETHING. OR YOU

1 MIGHT BE ABLE TO REMEDIATE IT ON SITE. SO THESE WERE THE
2 OPTIONS LEFT UP TO THE APPLICANT, WHEN CONTACTED BY THE
3 APPLICANT.

4 AGAIN, WE'LL GET TO SEE -- AND WHEN WE WERE
5 HERE ON SEPTEMBER 17TH, WE DID IN FACT -- MYSELF INCLUDED,
6 MARCUS LADUCA FROM SANBERG AND LADUCA, WHO WAS
7 REPRESENTING US AT THAT HEARING, ALSO RAISED IT. AND IF I
8 REMEMBER RIGHT, AND CITIZENS WILL ATTEST TO THIS, THEY ALSO
9 DISCUSSED THAT AT THE SEPTEMBER 17TH BOARD HEARING.
10 ALTHOUGH IT WAS STATED EARLIER THIS EVENING THAT THAT IN
11 FACT HAD NOT OCCURRED.

12 SO, WHAT TYPE OF LEVELS ARE WE TALKING ABOUT?

13 ARE WE REALLY TALKING ABOUT LOW LEVELS?

14 I HAVE SOME ANALYTICALS FROM THAT SOIL.

15 YOU'LL SEE FOR ONE SAMPLE, SAMPLE I.D. NUMBER SEVEN, TPH
16 MOTOR OIL, 710 PARTS PER MILLION. IF I GO DOWN, TPH MOTOR
17 OIL, SAMPLE NUMBER SEVEN, 600 PARTS PER MILLION. WHAT DOES
18 THIS MEAN? PARTS PER MILLION, 600 PARTS PER MILLION, IS THAT
19 LOW OR NOT? I WOULD THINK IT'S RATHER HIGH IN THAT AREA,
20 BECAUSE THE WATER QUALITY OBJECTIVE IS 50 PARTS PER BILLION.
21 THIS IS 600 PARTS PER MILLION.

22 NOW, DOES THE COUNTY OF HUMBOLDT GET EXCITED

23 ABOUT 600 PARTS PER MILLION? I WOULD SAY YES. LET ME GO

24 BACK TO THE CITY GARBAGE COMPANY SITE AND OUR CONTAMINATION,
25 WITH THE SAME CONTAMINANT, MOTOR OIL. MOTOR OIL LEVELS IN

1 OUR WELLS ARE 1400 PPB. THE COUNTY'S VERY EXCITED ABOUT
2 THAT. IN FACT, THEY REFERRED THE PROJECT ON TO THE WATER.
3 BOARD FOR THEIR INPUT. NOW WE'RE TALKING ABOUT LEVELS THAT
4 ARE MAGNITUDES HIGHER HERE, 600 PPM, NOT PPB, 600 PPM. YET
5 THE COUNTY ISN'T EXCITED ABOUT THIS. SO, I ASK WHAT EXACTLY
6 IS TRYING TO BE COVERED UP?
7 I DO THINK THAT IT WAS KNOWN THAT THE
8 CONTAMINATION WAS PRESENT. AND IN FACT, THE APPLICANT
9 ADMITTED TO THAT, THAT IT WAS LIKELY PRESENT. IT WAS AN OLD
10 LOG SITE. YOU WOULD EXPECT THIS.
11 WHY DID YOU NOT GO THROUGH A WORK PLAN? WHY,
12 INSTEAD, DID YOU EXCAVATE SOIL, TRY AND ILLEGALLY DIRECT IT
13 TO THE CUMMINGS ROAD LANDFILL, IMMEDIATELY CONSTRUCT A
14 BUILDING ON TOP OF IT TO TRY AND COVER IT UP, AND THEN POINT
15 THE FINGER AT EVERYBODY ELSE AS IT BEING THEIR PROBLEM?
16 THAT IS NOT THE WAY WE ARE USED TO SEEING. AND I'M SURE
17 NOBODY ELSE IN THE STATE, CERTAINLY NO PRIVATE ENTITY IS
18 USED TO HANDLING A CONTAMINATED SITE.
19 ONE OTHER THING, IN JUST GOING THROUGH MY
20 NOTES THAT I MAY HAVE FAILED TO MENTION, IS FOR INSTANCE
21 WHEN YOU HAVE CONTAMINATION LIKE THIS, WHEN IT'S TPH MOTOR
22 OIL, YOU IMMEDIATELY STAND BACK AND SAY, WELL, SINCE IT'S
23 OLDER MOTOR OIL, AS THE LAB RESULTS DO STATE -- SO ITS NOT
24 FRESH, IT'S BEEN THERE FOR A WHILE -- YOU START TO THINK,
25 WELL, HOW DID IT GET THERE, AND WHERE DID IT COME FROM?

1 AND YOU'RE IMMEDIATELY CONCERNED ABOUT METALS
2 IN THAT OIL. AND SO TYPICALLY, ONCE YOU FIND THE MOTOR OIL
3 YOU STEP BACK AND YOU DO TESTS FOR CADMIUM, CHROMIUM, LEAD,
4 NICKEL, ZINC, THINGS THAT ARE VERY TOXIC TO AQUATIC LIFE IN
5 THE ADJACENT WETLANDS, IN JANE'S CREEK, WHERE ALL OF THIS
6 WATER DRAINS FROM.

7 YOU ALSO LOOK AT SEMI-VOLATILE ORGANICS, AND
8 YOU LOOK AT VOLATILE ORGANICS. AGAIN, WE HAVE NO
9 INFORMATION ABOUT ANY OF THIS.

10 I DO SAY, IT'S BEEN A COMPLETE MISHANDLING OF
11 THE SOIL BUT MORE IMPORTANTLY, FROM THE BOARD'S
12 PERSPECTIVE, IT WAS KNOWN TO BE THERE, ADMITTED BY THE
13 APPLICANT THIS EVENING. IT WAS KNOWN TO BE THERE. YET IT WAS
14 NOT DISCLOSED TO THE PUBLIC AND; THEREFORE, IT WAS
15 MISREPRESENTED.

16 THANK YOU.

17 CHAIRMAN PENNINGTON: THANK YOU.

18 OKAY. DENISE?

19 MEMBER EATON: I JUST HAVE A QUESTION. AND I'D JUST
20 LIKE TO KIND OF FIND OUT FROM YOURSELF, AS WELL AS THE
21 PREVIOUS GENTLEMAN, THIS REPORT, IS THIS THE AUTHORITY'S,
22 THE CITY'S, OR IS IT A REPORT THAT YOU OBTAINED
23 INDEPENDENTLY?

24 MR.. GAMBELIN: I'M SORRY. WHICH REPORT IS THAT?

25 MEMBER EATON: SOMEONE HANDED OUT HERE A REPORT ON

1——

2 CHAIRMAN PENNINGTON: SOILS REPORT.

3 MR. GAMBELIN: THE SOILS REPORT. THAT IS FROM
4 KERNAN CONSTRUCTION FROM LAB ANALYTICAL S. IT'S FROM THE
5 CONTRACTOR WE ASK THAT WHENEVER SOMEBODY HAS SOIL --

6 MEMBER EATON: ALL I'M TRYING TO DO RIGHT HERE IS FIND
7 OUT WHO'S REPORT THIS IS. THAT'S ALL. WHO PAID FOR IT? WHO
8 ISSUED IT? HOW -- IS THIS THE REPORT BY WHICH THE PREVIOUS
9 TESTIMONY OF 100 PARTS PER MILLION AND FIVE PARTS PER
10 MILLION OF DIESEL WAS OBTAINED FROM? IS THERE A DIFFERENT
11 SET OF SAMPLES? ARE WE DEALING WITH TWO DIFFERENT BITS OF
12 INFORMATION? HELP US DO OUR JOB.

13 AND I -- JUST FOR BOTH PARTIES, I DON'T WANT
14 TO HEAR. ANY MORE ABOUT THEYS AND THEM. IT DOESN'T DO YOU
15 ANY GOOD. AND DON'T -- NO ALLEGING, NO COVERUPS, OR THAT
16 THEY WERE -- BOTH SIDES, IT'S NOT GOING TO WORK WHAT WE'RE TRYING
17 TO GET HERE IS TO FIND OUT WHERE THE INFORMATION CAME FROM.
18 PLEASE, HELP US.

19 MR. GAMBELIN: MY UNDERSTANDING IS THAT THIS IS A
20 SECOND ROUND OF SAMPLING THAT WAS DONE BY KERNAN
21 CONSTRUCTION. THE FIRST ROUND WAS DIRECTED BY THE WA,
22 WHICH HAD OTHER -- WHICH HAD RESULTS. WHEN THEY GOT THOSE
23 RESULTS -- I'M TRYING TO EXPLAIN WHAT SAMPLES ARE WHICH.
24 THEY HAD RESULTS -- MY UNDERSTANDING IS THAT
25 THEY HAD INITIAL RESULTS, THE LAB -- AND SOMEBODY COMMENTED

1 THAT YOU NEEDED TO DO AN ADDITIVE WHEN YOU DO YOUR SAMPLING
2 TO GET A MORE REPRESENTATIVE SAMPLE. KERNAN CONSTRUCTION
3 TOOK THESE -- AGAIN, THE REPORT THAT I HAVE IS FROM NORTH
4 COAST LAB'S REPORT TO KERNAN CONSTRUCTION. AND SO IT WAS
5 KERNAN CONSTRUCTION THAT DROPPED OFF THESE SAMPLES FROM THE
6 SOIL THAT WAS EXCAVATED. THESE ARE THE RESULTS. THEY USED
7 SAMPLING TECHNIQUES THAT USED WHAT IS CALLED A BUFFER SO
8 THAT IT PROVIDES APPROPRIATE --

9 MEMBER EATON: MORE THAN I NEED TO KNOW. NOW, I NEED
10

11 MR. GAMBELIN: -- AND MORE DEFENSIBLE RESULTS.
12 OKAY.

13 MEMBER EATON: -- TO FIND OUT WHERE YOUR NUMBERS CAME
14 FROM.

15 MR. SCHAUB: TWO SAMPLES. AND BOTH OF THEM
16 WERE DONE AT THE REQUEST OF KERNAN CONSTRUCTION COMPANY,
17 WHICH IS OUR CONTRACTOR BUT I THINK MR. TYLER CAN POINT
18 OUT THAT THE NUMBERS THAT WERE SHOWN TO YOU WERE FROM A
19 DIFFERENT REPORT, NOT FROM THE CURRENT ONE.
20 THE FIRST ONE THAT WAS DONE HAD TO BE DONE
21 OVER BECAUSE THE SAMPLINGS WEREN'T ADEQUATE. SO I THINK
22 THAT HE WAS --

23 MEMBER EATON: AND WHICH WERE THOSE FIGURES THAT WERE
24 QUOTED AS TO 100 PARTS PER MILLION AND FIVE PARTS PER
25 MILLION TAKEN FROM. WAS IT THIS REPORT, OR WAS IT ANOTHER

1 REPORT?

2 MR. TYLER: WELL, LET ME SEE IF I
3 CAN HELP CLARIFY. THERE ARE ACTUALLY FOUR SETS OF SAMPLES
4 TAKEN OVER A PERIOD OF TIME. I KNOW THAT'S NOT
5 CLARIFICATION, THAT S MORE CONFUSION.

6 MEMBER EATON: WELL, WHY DON'T WE JUST STOP TILL WE
7 GET THE OTHER TWO, AND THEN WE FIGURE WE'VE GOT EVERYTHING
8 BEFORE US.

9 MR. SCHAUB: THE NUMBERS THAT I READ TO YOU
10 PREVIOUSLY ARE FROM A LETTER TO MR. SCOTT FARLEY AT KERNAN
11 CONSTRUCTION, DATED OCTOBER 27TH, 1998. THE END RESULT OF A
12 STUDY AND SAMPLES REVIEWED BY A SOILS EXPERT FOR THE FIRM OF
13 WINDSOR AND KELLY. AND THE INDIVIDUAL WHO WORKS FOR WINDSOR
14 AND KELLY THAT PROVIDED THOSE IS STEVE SALZMAN. HE'S THE
15 SENIOR PROJECT MANAGER FOR CONTAMINATED SOILS AND ISSUES.
16 SO, I'M NOT SURE WHERE THE PREVIOUS SPEAKER'S
17 NUMBERS ARE COMING FROM. I UNDERSTAND THE NORTH COAST LAB
18 TESTING RESULTS, BUT I WANT TO REMIND YOU, THERE WERE FOUR
19 SETS AT FOUR DIFFERENT TIMES OF NORTH COAST LABORATORY
20 RESULTS, NONE OF WHICH HAVE BEEN PROVIDED TO THE CITY OTHER
21 THAN WHAT WE'VE RECEIVED.

22 MEMBER EATON: SO THERE WERE FOUR
23 SETS? DOES ANYONE HAVE THE SEQUENCING, I MEAN, OF WHAT
24 THESE SETS WERE, ON EITHER SIDE? I'M NOT -- WE'RE JUST
25 TRYING TO FIND OUT, REALLY --

1 MR. SCHAUB: WE DON'T HAVE -- THE ONLY ONES
2 THAT WE WERE PROVIDED WITH WERE THE ONES THAT MR. TYLER WAS
3 REFERRING TO, BECAUSE THEY'RE CONSIDERED PROPRIETARY BY THE
4 CONTRACTOR
5 NOW, APPARENTLY SOMEBODY ELSE HAS GOTTEN A
6 HOLD OF THEM. BUT THE MOST CURRENT REPORT IS A COMPLETE AND
7 ADEQUATE -- BASED UPON A COMPLETE AND ADEQUATE SAMPLING.
8 THE PREVIOUS ONES WEREN'T. AND THAT'S WHY THIS MOST RECENT
9 ONE WAS DONE, BECAUSE WE WERE HAVING THIS DISPUTE OVER WHAT
10 TO DO WITH THE SOIL. AND SO WE SAID, HEY, LET'S GET A FULL-ON,
11 TOP-OF-THE-LINE, ADEQUATE SAMPLING, FULL REPORT. AND
12 THAT'S WHAT -- THE ONES THAT MS. TYLER WAS REFERRING TO.
13 NOW, I THINK THE PREVIOUS SPEAKER WAS JUST
14 PICKING ONES THAT HE LIKED.

15 MEMBER EATON: WELL, I'LL ASK THAT QUESTION. I'D
16 LIKE TO FIND OUT FROM HIM WHETHER HE IS AWARE OF THE OTHER
17 REPORT, AS WELL.

18 MR. TYLER CAN I HELP CLARIFY ONE OTHER
19 ISSUE?

20 MEMBER EATON: SURE.

21 MR. TYLER: WE MAY BE TALKING ABOUT THE SAME
22 TEST RESULTS. I JUST NOTICED HERE THAT THESE RESULTS THAT
23 WERE GIVEN TO US -- AND I THINK HE REFERENCED SAMPLE NUMBER
24 SEVEN -- WERE SPECIFIC TO THE OCTOBER 13TH SAMPLING DATE.
25 AND IT SHOULD BE NOTED THAT IT'S MOTOR OIL WITH LUMINA

1 CLEANUP, WHICH IS THE PROCESS THAT HE MENTIONED BEFORE, IN
2 PARTS PER BILLION, 600 PARTS PER BILLION, NOT MILLION.
3 I'LL BE HAPPY TO PROVIDE YOU WITH A COPY OF
4 THIS REPORT IF YOU'D LIKE.

5 MEMBER EATON: I'M JUST TRYING TO GET SOME
6 ACCURATE INFORMATION. I DON'T CARE WHO PROVIDES IT OR
7 WHATEVER, I JUST REALLY NEED --
8 SO, PERHAPS THE OTHER GENTLEMAN COULD
9 CLARIFY, WAS IT BILLIONS OR MILLIONS?

10 MR. GAMBELIN: MICROGRAMS PER GRAM, WHICH
11 TRANSLATES TO PPM.

12 MR. JONES: PARTS PER MILLION, YES.
13 MR. TYLER I HAVE UG PER G, WHICH IS PARTS PER
14 MILLION.

15 MR. GAMBELIN: WELL, YOU KNOW, IT'S INTERESTING
16 THOUGH LET'S SAY IT'S 600 PPB, IT STILL EXCEEDS THE WATER
17 QUALITY OBJECTIVE OF 50 PPB.

18 MEMBER EATON: NO, I DON'T -- I ASKED YOU -- DID I
19 ASK YOU-

20 MR. GAMBELIN: AND THAT'S PROBABLY THE
21 IMPORTANT PART.

22 MEMBER EATON: --NOT TO ENGAGE IN THAT? I'M JUST
23 TRYING TO GET A QUESTION --

24 MR. GAMBELIN: THAT'S FINE.

25 MEMBER EATON: IF YOU WANT TO COMMENT UPON

1 SOMETHING, GO AHEAD.

2 MR. GAMBELIN: OKAY.

3 MEMBER EATON: BUT I'M NOT -- IT'S LATE IN THE
4 EVENING, AND I ASKED YOU KINDLY, DID I NOT? PLEASE.

5 MR. GAMBELIN: NO PROBLEM.

6 MEMBER EATON: THE ANSWER TO MY QUESTION --

7 MR. GAMBELIN: MY UNDERSTANDING IS IT'S PARTS
8 PER MILLION.

9 MEMBER EATON: ARE YOU AWARE THAT THERE WAS MORE
10 THAN ONE SAMPLE DONE? AND ARE YOU EXTRACTING ONE TEST OUT
11 OF ALL OF THEM?

12 MR. GAMBELIN: I AM LOOKING AT --

13 MEMBER EATON: NO. I'M ASKING YOU, ARE YOU AWARE
14 OF -- THAT THERE ARE FOUR SETS? AND WHAT --

15 MR.. GAMBELIN: I WAS AWARE THAT --

16 MEMBER EATON: -- ARE THE FINAL CONCLUSIONS?

17 MR. GAMBELIN: I HAD HEARD --

18 MEMBER EATON: AND HE JUST -- I'M TRYING TO GET A
19 RESPONSE TO WHAT HIS ALLEGATIONS WERE. CAN YOU RESPOND TO
20 THAT?

21 MR.. GAMBELIN: I HAD HEARD THAT THERE WERE TWO
22 SAMPLING EVENTS. I HAVE SAMPLES AND LAB RESULTS FROM ONE
23 SAMPLING EVENT, FROM THE -- APPARENTLY THE 10/13/98 SAMPLING
24 EVENT.

25 MS. DELMATIER: MR. EATON, I THINK I MIGHT BE ABLE

1 TO CLARIFY A LITTLE BIT WHY WERE HAVING SOME DIFFICULTY
2 HERE.

3 KERNAN CONSTRUCTION COMPANY AND THE WA ARE
4 IN SOMEWHAT OF A POTENTIAL ADVERSARIAL POSITION HERE. WE
5 HAVEN'T BEEN GIVEN -- ALTHOUGH WE'VE REQUESTED THE
6 INFORMATION REPEATEDLY, WE DO NOT HAVE NECESSARILY DIRECT
7 ACCESS TO THE INFORMATION. WE'VE BEEN CREATIVE IN TRYING TO
8 GET BITS AND PIECES. THIS IS THE BEST WE HAVE, BUT WE DON'T
9 HAVE THE SAME KNOWLEDGE THAT THE WA HAS WITH THEIR
10 CONTRACTOR THAT'S PART-11

MEMBER EATON: WHICH I KNOW, AND I UNDERSTAND
12 THAT. BUT YOU CAN UNDERSTAND OUR POSITION, THAT BOTH --

13 MS. DELMATIER: YEAH, SURE.

14 MEMBER EATON: -- THE ALLEGATIONS FLYING BACK AND
15 FORTH ABOUT SOMEONE HIDING THE BALL AND NOT HIDING THE BALL.
16 I THINK ALL WE WOULD LIKE IS SOME DISCLOSURE THAT WE DON'T
17 HAVE FULL INFORMATION, BUT WHAT WE HAVE IS THIS. THAT WOULD
18 HELP US.

19 MS. DELMATIER: THAT'S WHAT I'M --

20 MEMBER EATON: THAT'S NOT THE WAY THE INFORMATION
21 WAS PRESENTED JUST RECENTLY, BY YOUR SPEAKER AND IT MAY
22 NOT HAVE BEEN THEIR -- AND I'M NOT TAKING SIDES.
23 BUT I THINK IT'S IMPORTANT FOR US IN WHAT
24 WE'RE GOING TO DO HERE, OR MAY NOT DO, TO HAVE THAT KIND OF
25 DISCLOSURE. BECAUSE THAT'S WHAT WE FAILED TO HAVE ALL

1 ALONG. I MEAN, THAT'S THE BASIS OF ALL THIS ALLEGATION, NO
2 MATTER WHO DOES IT. AND I THINK THAT'S ONLY FAIR TO US.

3 MS. DELMATIER: WE PROVIDED YOU WITH THE REPORT
4 THAT WE HAVE THAT IDENTIFIES CERTAIN LEVELS OF
5 CONTAMINATION. THAT'S ALL WE HAVE. YOU CAN ASK THE WA IF
6 THEY HAVE ADDITIONAL. BUT, YOU KNOW, THEY'RE IN AN
7 ADVERSARIAL WITH THEIR CONTRACTOR.

8 MEMBER EATON: THEN I WILL ASK, DO YOU HAVE OTHER
9 INFORMATION?

10 CHAIRMAN PENNINGTON: WHAT IS THE DATE OF THEIR
11 SAMPLING?

12 MEMBER JONES: OCTOBER 13TH ON THIS ONE. RIGHT?

13 CHAIRMAN PENNINGTON: RIGHT, OCTOBER 13.

14 MR. SCHAUB: WE HAVE THE REPORT FROM WHICH MR.
15 TYLER WAS ADDRESSING YOU. THAT'S ALL WE HAVE, TOO.

16 MEMBER JONES: WHAT WAS THE DATE OF THAT ONE?

17 MR. SCHAUB: THE DATE OF THE REPORT IS OCTOBER
18 26-- 27, 1998, LAST WEEK.

19 CHAIRMAN PENNINGTON: NOW, THAT'S RECEIVED BY THE
20 HUMBOLDT COUNTY DIVISION OF ENVIRONMENTAL HEALTH. THIS IS
21 DATED OCTOBER 16.

22 MR. SCHAUB: THE ACTUAL TEST DATE WAS OCTOBER
23 13.

24 CHAIRMAN PENNINGTON: WELL, THIS IS DATED OCTOBER
25 16.

1 MEMBER JONES: RIGHT. BUT THE TEST DATE, IT SAYS
2 THE 13TH, THAT IT WAS EXTRACTED ON THE 13TH. IS THAT WHAT
3 WE'RE TALKING ABOUT?

4 MR. SCHAUB: THAT'S THE INFORMATION THAT THE
5 JPA HAS.

6 MEMBER JONES: THIS ONE?

7 MR. SCHAUB: YES -- WELL, I DON'T KNOW WHICH
8 ONE YOU HAVE, UNLESS IT'S THE ONE WE JUST GAVE YOU.

9 CHAIRMAN PENNINGTON: IT'S THE ONE SOMEBODY JUST
10 GAVE US.

11 MEMBER FRAZEE: SOMEBODY GAVE US. WE DON'T KNOW
12 WHO.

13 MEMBER RHOADS: YOU CAN --

14 CHAIRMAN PENNINGTON: WHO DID YOU GET THIS FROM?

15 MS. DELMATIER: ME. I GAVE THAT ONE OUT.

16 CHAIRMAN PENNINGTON: OKAY.

17 MEMBER EATON: DO WE HAVE TO EX PARTE THIS NOW, I
18 GUESS?

19 MEMBER JONES: THE ONE GOOD THING, THERE'S NO MTBE
20 IN

21 HERE.

22 MR. SCHAUB: ALL I KNOW IS THAT THE REPORT
23 THAT'S ACCURATE. THAT'S BASED UPON THE FULL SAMPLING, IS THE
24 ONE THAT IS BEING COPIED RIGHT NOW. THAT IS THE LEGITIMATE
25 REPORT. THE ONE THAT'S BEING COPIED FOR YOU RIGHT NOW, THE

1 ONE THAT MR. TYLER WAS READING FROM.

2 CHAIRMAN PENNINGTON: WELL, YOU SAY THAT'S THE
3 LEGITIMATE REPORT, BUT --

4 MR. SCHAUB: THAT'S THE ONE THAT WAS PROVIDED
5 TO US-

6 CHAIRMAN PENNINGTON: -- ARE YOU SUGGESTING THIS
7 IS NOT THE LEGITIMATE ONE?

8 MR. SCHAUB: YEAH, I MEAN, I GUESS I WOULD BE.
9 BECAUSE I KNOW THAT WE ALL AGREED, IN THIS DISPUTE OVER THE
10 SOIL, THAT WE NEEDED A FULL-ON, ACCURATE REPORT THAT WAS
11 BASED ON COMPLETE SAMPLINGS, BECAUSE NECESSARILY THAT
12 IMPLIES THAT THE PREVIOUS ONES WEREN'T. SO --

13 MEMBER EATON: AND I WOULD ASK YOU JUST TO
14 REFRAIN, AS I ASKED THE OTHER GENTLEMAN, FROM MAKING THOSE
15 KINDS OF SORT OF COMMENTARIES THAT AREN'T -- YOU KNOW, I
16 MEAN, IF YOU HAVE INFORMATION THAT SAYS THEY'RE LEGITIMATE
17 --I'M TRYING TO BE FAIR ON BOTH SIDES. I DON'T THINK THAT
18 HELPS ANYONE --

19 MR. SCHAUB: I WASN'T DENIGRATING HIM, I JUST
20 MEANT THAT WE WERE NOT -- NONE OF US WERE CONFIDENT OF THE
21 RESULTS OF THOSE REPORTS. I'M NOT -- THE PREVIOUS SPEAKER
22 DIDN'T MAKE THE REPORTS, SO I'M NOT DENIGRATING HIM.

23 CHAIRMAN PENNINGTON: OKAY. MR. TYLER

24 MR. TYLER: COULD I CLARIFY MAYBE? I'LL TRY.

25 I BELIEVE, IF I COULD TALK TO GAMBELIN, TO MAKE SURE THAT

1 WE'RE LOOKING AT EXACTLY THE SAME REPORT?

2 CHAIRMAN PENNINGTON: SURE.

3 MEMBER EATON: MAYBE WE COULD COME TO SOME --

4 CHAIRMAN PENNINGTON: OKAY. DENISE, DO YOU HAVE
5 MORE TROOPS TO BRING FORWARD?

6 MS. DELMATIER: WE ARE FINISHED WITH THIS PORTION
7 OF THE TESTIMONY AND WOULD DEFER TO THE RESIDENTS WHO HAVE
8 TRAVELED A LONG WAY.

9 CHAIRMAN PENNINGTON: GOOD. VERY GOOD. IF I
10 RECALL, THE LAST TIME YOU HAD SOME -- THE RESIDENTS HAD SOME
11 ORDER, THEY WANTED TO SPEAK IS THAT TRUE?

12 MS. STAMMER: I'M THE SHORTEST, SO I CAN GO FIRST.

13 CHAIRMAN PENNINGTON: OKAY. PATTI STAMMER.

14 MS. STAMMER: YES. MY NAME IS PATTI STAMMER. I AM
15 A LONG-TIME RESIDENT OF ARCATA, A BUSINESS OWNER, AND MOM.
16 I AM NOT EMPLOYED BY NORCAL OR CITY GARBAGE.
17 OUR CITIZENS GROUP, CONTRARY TO WHAT MR.
18 SCHAUB HAS LED YOU TO BELIEVE, WE ARE NOT BEING HELD ON
19 STRINGS BY CITY GARBAGE OR NORCAL. WE WENT TO THEM AS AN
20 INFORMATIONAL RESOURCES. WE HAVE SHARED INFORMATION WITH
21 THEM SO AS NOT TO REINVENT THE WHEEL.
22 OUR CITIZENS GROUP WAS NOT RECRUITED. THEY
23 CAME OUT EN MASSE, AS THEY WERE INFORMED. AND AS I TOLD YOU
24 BEFORE, I HIRED A KID IN A CLOWN SUIT TO GO TO THE PLAZA TO
25 TELL PEOPLE IN MY TOWN WHAT WAS HAPPENING, BECAUSE NOBODY

1 ELSE WAS. SO PEOPLE HAVE COME FORTH VOLUNTARILY.
2 THEY HAVE BEEN UNANIMOUSLY OPPOSED TO THIS
3 ISSUE IN ARCATA. AND I FEEL THAT THE REST OF THE
4 COMMUNITIES IN HUMBOLDT ARE LAUGHING AT ARCATA, GOING HA-HA,
5 AT LAST SOME FOOLS WILL TAKE THIS PROJECT, DON'T INTERFERE
6 WITH THEM. JUST LET THEM DO IT. WHICH APPARENTLY WE ARE.
7 ON THE ISSUE OF HOW WE VOTED. THE PLANNING
8 COMMISSION DENIED THIS BY A TWO-TO-TWO VOTE, BECAUSE THE WA
9 REQUESTED A SPECIAL MEETING. THEY HAD ONLY A QUORUM. THREE
10 MEMBERS WERE ABSENT.
11 AT THAT MEETING WHERE IT WAS DENIED DWAYNE
12 GOFORTH, ONE OF OUR PLANNING COMMISSIONERS, DETAILED IN A
13 DOCUMENT TO THE CITY COUNCIL THE POLLUTION HE FELT WAS
14 ALREADY ON THIS SITE, ALONG WITH ALL THE CEQA VIOLATIONS.
15 AND THAT WAS DATED AUGUST 5TH. SO THE QUESTION OF BEING
16 FROM MARS WAS NOT AT ISSUE. ALL YOU HAD TO DO WAS BE AT THE
17 PLANNING COMMISSION MEETING OR THE CITY COUNCIL MEETING,
18 BECAUSE IT WAS BROUGHT UP REPEATEDLY BY MEMBERS OF THE
19 PLANNING COMMISSION AND BY CITIZENS BEFORE ANYBODY EVER
20 TALKED TO NORCAL WASTE. SO THAT'S NUMBER ONE.
21 IT WAS NOT A UNANIMOUS VOTE OF THE CITY
22 COUNCIL TO PASS THE CONDITIONAL USE PERMIT BY ANY STRETCH OF
23 THE IMAGINATION. IT WAS THREE-TO-TWO, AND IT WAS A DICEY
24 THREE-TO-TWO AT THAT. SO I'D LIKE TO CLARIFY THAT.
25 WE DO NOT FEEL THERE'S A CONSPIRACY BY OUR

1 GOVERNMENT, OUR CITY COUNCIL. WE JUST FEEL THEY ARE
2 INCREDIBLY INEPT. AND IF THEY WANT TO CALL THAT CONSPIRACY,
3 LET THEM CALL IT WHAT THEY LIKE.
4 WE FEEL THIS WAS AN ILL-CONCEIVED PROJECT,
5 POORLY PREPARED, POORLY PRESENTED, REPRESENTED AS SOMETHING
6 IT'S NOT. AND I FEEL LIKE IF WE KEEP HEARING TESTIMONY FROM
7 THE PEOPLE IN MY CITY, THEIR NOSES ARE GOING TO GROW SO LONG
8 THEY'RE NOT GOING TO BE ABLE TO TURN AROUND IN A ROOM. SO
9 I'M PRETTY TIRED OF THIS MYSELF.
10 WE ARE FINANCED AND SUPPORTED BY A BROAD BASE
11 IN OUR COMMUNITY, AS IS EVIDENT BY ALL THE TESTIMONY THAT
12 YOU HAVE READ FROM ANY OF OUR MEETINGS.
13 ALSO, OUR LOCAL NEWSPAPER -- I'VE BEEN GONE
14 FOR A MONTH, IN EGYPT, WHERE I HAVE SEEN TRASH CLOSE-UP. SO
15 THIS TRASH IN ARCATA IS A PIECE OF CAKE COMPARED TO WHERE
16 I'VE BEEN.
17 AND IN GETTING UP TO SPEED, I CAME BACK TO
18 READ MY LOCAL NEWSPAPER AND THERE'S FIVE ISSUES THAT HAVE
19 HAPPENED SINCE I LEFT TOWN. ALL FIVE ARE HERE. EVERY
20 SINGLE
21 ONE OF THEM HAS A FRONT-PAGE ARTICLE DISCUS SING TRASH OR
22 DIRT. THIS NEWSPAPER ENDORSED JIM TEST, THE WAY
23 REPRESENTATIVE AND OUR MAYOR, FOR REELECTION. SO IT'S NOT,
24 YOU KNOW, SOME HIDEOUS LIBERAL RAG OUT TO, YOU KNOW, DESTROY
25 OUR GOVERNMENT. IT'S A COMMUNITY NEWSPAPER THESE FIVE

1 PAPERS ARE FILLED WITH EDITORIALS, PRO AND CON, AND LETTERS,
2 MOSTLY LETTERS OPPOSING THIS PROJECT.
3 SO THAT'S ALL I HAVE TO SAY AS A MEMBER OF
4 THIS COMMUNITY. I'M NOT SUPPORTING OR CONDEMNING NORCAL OR
5 CITY GARBAGE. THEY HAVE BEEN A TREMENDOUS SOURCE OF
6 INFORMATION AND RESOURCES FOR US, UNLIKE MY OWN CITY
7 GOVERNMENT. AND SO FOR THAT I APPLAUD THEM.
8 I DON'T KNOW HOW THIS IS GOING TO COME OUT.
9 ALL WE WANT IS WHAT WE ASKED FOR INITIALLY, WAS THAT AN ER
10 BE PREPARED. AND IT'S MY UNDERSTANDING THAT WHEN THERE IS A
11 CONTROVERSY OVER WHETHER OR NOT THERE IS GOING TO BE AN
12 ENVIRONMENTAL IMPACT, AS THERE SEEMS TO BE HERE WITH THE
13 DIRT ISSUE, THAT MAKES AN ENVIRONMENTAL IMPACT REPORT A
14 NECESSITY UNDER CALIFORNIA STATE LAW. BUT THERE'S A BEVY
15 OF LAWYERS HERE WHO APPARENTLY ARE GOING TO DUKE THIS OUT.
16 SO THAT'S ALL I HAVE TO SAY, EXCEPT THANK YOU
17 VERY MUCH FOR CONSIDERING THIS AGAIN. AND I HOPE FERVENTLY
18 THAT I NEVER SEE ANY OF YOU AGAIN.

19 CHAIRMAN PENNINGTON: DOES ANYBODY HAVE ANY
20 QUESTIONS OF MS. STAMMER? WELL, WE'RE SORRY YOU DON'T EVER
21 WANT TO SEE US AGAIN.

22 MS. STAMMER: WELL, I MEAN THAT IN THE NICEST WAY
23 POSSIBLE.

24 CHAIRMAN PENNINGTON: I KNOW. OKAY. MICHAEL
25 MACHI.

1 MR. MACHI: HELLO, I'M MICHAEL MACHI FROM ARCATA,
2 CALIFORNIA.
3 AND I'M NOT A SOILS EXPERT. HOWEVER, I HAVE
4 DONE QUITE A BIT OF RESEARCH ON THIS SITE MYSELF, INCLUDING
5 GETTING PEOPLE TOGETHER TO INTERVIEW THE OLD TIMERS WHO
6 WORKED THERE AT THE TURN OF THE CENTURY, INCLUDING SOME
7 90-YEAR OLDS, AND TO FIND OUT EXACTLY WHAT WAS HAPPENING THERE.
8 AND THIS SITE IS MORE THAN JUST AS HAS BEEN
9 CATEGORIZED AS A HEAVY INDUSTRIAL SITE. IT WAS A BARREL
10 FACTORY FOR YEARS, AND THE ENTIRE SITE THAT WE'RE TALKING
11 ABOUT HAS BEEN A LOG DECK IN ONE WAY OR ANOTHER UNTIL
12 PRESENTLY. AND IN TALKING WITH THE OLD TIMERS, THEY STATED
13 THAT AS A REGULAR SUMMER PROCESS, DIESEL OIL WAS SPREAD
14 ACROSS THE YARD TO KEEP THE DUST DOWN. AND ALSO USED MOTOR
15 OIL WAS SPREAD OUT THERE, TOO.
16 AND SO, AGAIN, IT SHOULD BE NO SURPRISE TO
17 ANYBODY IF YOU JUST CHECK AND SEE WHO WORKED OUT THERE, WHAT
18 WAS GOING ON, THAT THERE IS CONTAMINATION UPON THE SITE.
19 THIS CONTAMINATION IS NOT RESTRICTED TO A
20 COUPLE THREE AREAS AS HAS BEEN STATED HERE AS MAYBE JUST
21 THIS PILE OF DIRT THAT'S BEEN HAULED BACK AND FORTH. ITS
22 THE ENTIRE SITE THAT HAS BEEN -- HAD OIL AND DIESEL POURED
23 UPON IT.
24 AND I WAS REALLY CURIOUS TO SEE ON THE
25 MITIGATED NEG DEC, ON SECTION 9-D IT ASKED THE QUESTION,

1 EXPOSURE OF PEOPLE TO EXISTING SOURCES OF POTENTIAL HEALTH
2 HAZARDS, AND IT SAYS:
3 “BASED UPON SITE INSPECTIONS BY THE CITY
4 ENVIRONMENTAL SERVICES, STAFF, AND THE PROJECT
5 APPLICANT, THERE ARE NO EXISTING SOURCES OF
6 POTENTIAL HEALTH HAZARDS AT THE PROPOSED TRANSFER
7 STATION SITE.”
8 I MEAN, I CANNOT UNDERSTAND WHY ANYBODY WOULD
9 SAY THAT KNOWING THE HISTORY OF THE PLACE.
10 AND AS FAR AS SITE INSPECTION GOES, BASICALLY
11 IT WAS COVERED WITH 20 FEET OF LOGS. AND HOW ANYBODY COULD
12 TELL WHAT WAS UNDER THERE JUST BY WALKING AROUND IS BEYOND
13 ME.
14 AND SO WE PERSONALLY GONE OUT TO THE SITE
15 AND INSPECTED IT MANY TIMES AND HAVE TALKED WITH MR.
16 KINSFATHER ABOUT IT AND HAD OTHER FRIENDS OF MINE CALL HIM
17 UP TO FIND OUT WHAT WAS GOING ON ABOUT IT. AND EARLY IN
18 AUGUST HE STATED TO MY FRIENDS THAT -- JUST AS THE QUOTE THERE
19 FROM THE SEPTEMBER 3RD MEETING, THAT A PHASE ONE AND PHASE
20 TWO SOILS TEST HE HAD DONE, AND THAT THERE WASN'T REALLY
21 CONTAMINATION REPORTED. WELL, NO SURPRISE AT ALL THERE.
22 AND HIS REPORT, HE -- EXCUSE ME, THIS REPORT,
23 AS EVERYBODY HERE HAS SEEN, IS NOT AVAILABLE TO ANYBODY. I
24 HAVE TRIED FOR MONTHS TO GET THIS, INCLUDING TALKING TO HIM
25 DIRECTLY, AND I GOT THE RUNAROUND. I WAS TOLD THAT ECDC HAD

1 IT BUT, OH, THEY LEFT TOWN. AND I WAS TOLD THAT THE AEDR,
2 THE ORIGINAL APPLICANT HAD IT, AND THEY GAVE ME SOME OTHER
3 REPORT THAT MR. TYLER HAD REFERRED TO AS FAR AS THE
4 ABATEMENT ORDER AND WHO KNOWS WHERE THIS REPORT IS, BUT
5 IT'S STILL NOT BEEN MADE AVAILABLE TO THE PUBLIC.
6 HOWEVER, I DID GET FROM THE COUNTY HEALTH
7 DEPARTMENT A LETTER THAT YOU ALSO HAVE THAT STATES THAT THE
8 LEVELS OF CONTAMINATION, BEING THE 180 PARTS
9 UNDIFFERENTIATED TOTAL HYDROCARBONS AND VERY LOW LEVELS OF
10 TOTAL PETROLEUM HYDROCARBONS SUCH AS DIESEL.
11 I KNEW THAT THAT REPORT WAS AROUND SOMEWHERE,
12 AND I CONTINUED TO TRY TO GET IT FROM THE HEALTH DEPARTMENT,
13 AND THEY SAID IT WASN'T AVAILABLE. AND -- BUT I KEPT
14 TRYING.
15 AND I KNEW THAT -- WELL, I HAD WRITTEN A COLUMN IN THE
16 PAPER, THAT PATTI HAS REFERRED TO, MAKING POINTS ABOUT THE
17 SOIL.
18 AND MR. KINSFATHER JUST RECENTLY HERE -- I FORGET
19 WHAT THE DATE WAS, BUT IT WAS LAST WEEK, HAS SENT OUT A
20 LETTER TO EVERYONE WHO HAD SIGNED A PETITION TO THE COUNCIL
21 SAYING PLEASE DON'T DO THIS PROJECT. AND IN THIS LETTER HE
22 --
23 HIS ANSWER IS SOIL TAKEN FROM THE SITE HAS BEEN TESTED BY
24 AN INDEPENDENT ENGINEER AND LABORATORY. EXCAVATED SOILS
25 WILL BE USED OR DISPOSED IN ACCORDANCE WITH LOCAL AND STATE

1 REGULATIONS.

2 AS FAR AS EVERYBODY HAS TESTIFIED HERE, AS
3 SOON AS YOU FIND OUT ANY KIND OF CONTAMINATION, IT SHOULD BE
4 REPORTED TO BASICALLY EVERYBODY. AND IT SEEMS THAT THE WA
5 WAS NOTIFIED OF IT ON SEPTEMBER 3RD, AS SEEN IN THEIR
6 MINUTES. AND THAT IT WASN'T UNTIL OCTOBER 6TH THAT HE TOOK
7 THIS INFORMATION TO THE HEALTH DEPARTMENT TO CHECK OUT TO
8 SEE WHAT IT SAID.

9 AND FURTHER IN THEIR RECOMMENDATION, THE
10 HEALTH DEPARTMENT'S RECOMMENDATION, ILL QUOTE AGAIN:
11 "WE STRONGLY RECOMMEND THAT THE SOIL BE RE-SAMPLED
12 AND THE LUMINA OR SILICA GEL CLEANUP BE
13 PERFORMED ON THE SAMPLE PRIOR TO ANALYSIS AT THE
14 LABORATORY."

15 AND I THINK THAT'S WHAT THE OCTOBER 16TH
16 KERNAN CONSTRUCTION LABORATORY REPORTS ARE -- IS THE SECOND
17 ONE THERE.

18 I WENT DOWN TO THE HEALTH DEPARTMENT TWO DAYS
19 AGO AND WAS SURPRISED WHEN THEY DID GIVE ME THIS REPORT. I
20 HAD ASKED FOR THE ORIGINAL REPORT, AND THEY SAID IT WASN'T
21 AVAILABLE, BUT THEY GAVE ME THIS ONE HERE.

22 AND SINCE I DIDN'T UNDERSTAND WHAT IT MEANT, I
23 WENT TO NORTH COAST LABORATORIES THEMSELVES TO FIND OUT. AND
24 THE PERSONS WHO DID THE SOIL TEST TOLD ME THAT KERNAN
25 CONSTRUCTION HAD BROUGHT THIS SOIL IN FROM THE PILE OF DIRT

1 THAT IT HAD HAULED OVER TO THEIR PLACE IN BLUE LAKE. AND
2 BASICALLY SAID TEST FOR THESE SPECIFIC THINGS, WHICH
3 IS THE ONES THAT ARE TESTED THERE.
4 AND I ASKED HER IF SHE HAD KNOWN THAT THIS
5 WAS AN OLD LUMBER MILL SITE FOR 50 YEARS, WHAT SHE WOULD HAVE
6 TESTED FOR? AND SHE SAID TO ME THAT THEY WOULD HAVE TESTED
7 FOR MANY DIFFERENT KINDS OF HEAVY METALS. BUT SINCE THEY
8 DIDN'T KNOW WHAT THESE SOIL SAMPLES WERE FROM, THEY JUST DID
9 WHAT THE CONTRACTOR ASKED THEM TO DO.
10 AND SHE SAID TO ME THAT SOME OF THESE NUMBERS
11 WERE VERY SIGNIFICANT, ESPECIALLY WITH THE HIGH LEVELS OF
12 OIL. BUT THE MOST SIGNIFICANT ONE OF THEM -- WHICH IF YOU
13 LOOK ON ALL THE SECOND SETS OF PARAMETERS, AND IT GOES DOWN
14 THE LIST OF MTBE, BENZINE, TOLUENE. TOLUENE IS THE ONE
15 THAT SHE SAD) WAS A VERY IMPORTANT ONE, IT WAS A CARCINOGEN,
16 AND ANY LEVEL DETECTED WAS A HAZARD.
17 AND ACTUALLY THIS -- AND SO I ASKED -- I
18 CALLED UP THE HEALTH DEPARTMENT ON THIS ONE TO GET SOME MORE
19 INFORMATION, AND I TALKED TO VICKY FRY WHO IS ONE OF THE --
20 TM NOT QUITE SURE WHAT THE DEPARTMENT SHE IS IN THERE, BUT
21 SHE'S THE ONE THAT'S HANDLING IT NOW SHE'S JUST NEW TO THIS
22 DEPARTMENT. AND SHE SAD) TO ME THAT THIS TOLULINE HAD BEEN
23 REPORTED TO THE PUBLIC NEWSPAPER JUST RECENTLY AS CONCERNS,
24 I THINK, PROP 65. THAT ANY TIME YOU FIND THIS KIND OF
25 POLLUTION IT HAS TO BE NOTIFIED TO THE PUBLIC.

1 AND I KEEP HEARING PEOPLE SAYING THAT, OH, WE
2 JUST FOUND THIS LITTLE PILE OF DIRT THAT WAS -- WELL, IN A
3 BIG PILE OF DIRT, 3500 CUBIC YARDS OF DIRT THAT WAS
4 CONTAMINATED. WELL, IT'S THE ENTIRE SITE THAT'S
5 CONTAMINATED. IT JUST HAPPENED THAT THEY PICKED THIS
6 SECTION RIGHT IN THE MIDDLE OF THE PARCEL AND SAID THIS IS
7 WHERE WE'RE GOING TO BUILD OUR BUILDING, AND DIG OUR
8 FOUNDATION. AND THEY NEEDED TO DIG OUT THAT DIRT AND PUT IN
9 ENGINEERED FILL TO MAKE IT UP TO THE EARTHQUAKE STANDARDS.
10 AND ALL OF THIS DIRT THAT WAS TAKEN OUT OF THERE WAS FOUND
11 TO BE CONTAMINATED, AS IN THESE TWO REPORTS. AND IT IS
12 ABSOLUTELY NO DIFFERENT FROM ALL THE DIRT SURROUNDING THE
13 FIVE ACRES THERE. IT'S THE IDENTICAL DIRT.
14 SO, JUST BECAUSE IT'S COVERED UP WITH A TARP
15 AND BALES OF HAY AND ALL IS COMPLETELY IRRELEVANT TO IT
16 GETTING IN THE CREEK BECAUSE THE CONSTRUCTION COMPANY WENT
17 THROUGH THAT WHOLE PARCEL, SCRAPED IT ALL OFF, SCRAPED ALL
18 THE EDGES OF THE DITCH WHERE ALL THIS SIMILARLY-CONTAMINATED
19 DIRT WAS, AND STIRRED IT ALL UP, AND NOTHING HAS BEEN DONE
20 TO KEEP IT FROM GETTING INTO THE CREEKS.
21 THERE HAVE BEEN SIGNIFICANT RAINS HERE
22 RECENTLY. AND THEY'RE HAPPENING RIGHT NOW QUITE A BIT. AND
23 IF YOU GO OUT THERE AND LOOK AT THE WATER GOING OUT, IT'S
24 VERY DARK, ALSO BECAUSE OF THE TANNINS OF THE BARK FROM THE
25 TREES THAT WERE STORED THERE, BUT IT WAS -- HAD AN OILY

1 SHEEN ON IT, AND IT HAD A SMELL TO IT. AND I BROUGHT YOU A
2 SAMPLE OF DIRT, TOO, IF YOU'D LIKE TO SEE THAT TOO. IT'S
3 PRETTY FOUL-LOOKING STUFF, AND YOU CAN JUST GO OUT THERE AND
4 GRAB A BIT.
5 AND IT'S KIND OF IRRELEVANT TO SAY THAT YOU
6 HAVE WALKED AROUND THE SITE AGAIN AND DON'T PARTICULARLY SEE
7 ANY POLLUTION OR ANY CONTAMINATION, BECAUSE THE ONLY WAY
8 THAT YOU'RE GOING TO TELL IF THERE'S BEEN SOME TOLULINE OUT
9 THERE IS IF YOU FIND THE BROKEN BOTTLE WITH THE LABEL ON IT.
10 YOU KNOW, YOU DON'T GO OUT AND WALK AROUND AND SEE WHAT'S
11 OUT THERE AND FIND HEAVY METALS BY LOOKING.
12 IT SEEMS INCREDIBLE TO ME THAT NO ONE HAS
13 DONE THE TEST FOR ALL OF THESE HEAVY METALS AND STOPPED THE
14 PROJECT UNTIL THESE TESTS ARE COMPLETED UNTIL THE
15 REMEDIATIONS ARE COMPLETED. AND I JUST AM BAFFLED TO SEE
16 THE PEOPLE GETTING UP HERE AND ARGUING BACK AND FORTH ABOUT
17 SEMANTICS AND LEGAL THINGS, WHEN ITS THE ENVIRONMENT, IT'S
18 THE HEALTH OF THE BAY. IT'S THE HEALTH OF THE MARSH JAMB'S
19 CREEK, AND ALL OF IT IS THE MOST IMPORTANT THING HERE.
20 AND I THANK YOU FOR LISTENING TO US ALL. AND
21 I HOPE THAT YOU WILL CONSIDER THIS INFORMATION, AND I WILL
22 BE ABLE TO GIVE MY WIFE A GOOD EXPLANATION OF WHY I'M DOWN
23 HERE AGAIN FOR THE THIRD TIME. BECAUSE SHE DOESN'T
24 UNDERSTAND FOR THE FIRST TIME WHY I'M DOWN HERE THAT NO ONE
25 WAS LISTENING TO ME ANY OTHER PLACE. AND I HOPE THAT YOU

1 WILL LISTEN TO ME HERE NOW. THANK YOU.

2 CHAIRMAN PENNINGTON: THANK YOU.

3 ANY QUESTIONS? OKAY. THANK YOU.

4 OKAY. NOW WE HAVE JEFFREY KNAPP.

5 MR. KNAPP: MY NAME IS JEFF KNAPP, I'M A CITIZEN

6 OF ARCATA, AND I WAS DOWN HERE FOR YOUR PREVIOUS MEETING

7 WHEN YOU CONSIDERED THIS PROJECT. I'LL BE BRIEF.

8 BUT I JUST HAD TO TELL YOU THAT AS I HEAR,

9 AS A CITIZEN OF ARCATA, PEOPLE TALKING BACK AND FORTH ABOUT

10 PARTS PER MILLION AND PARTS PER BILLION AND SO ON, I JUST

11 WAS STRIKED BY THE FACT -- IS TO ME THAT'S REALLY ITS PART

12 OF IT, BUT OFF THE MARK THE REAL MARK IS TO HAVE A

13 MITIGATED NEGATIVE DECLARATION WHERE THERE'S A QUESTION

14 ASKED ABOUT PUBLIC HEALTH HAZARDS, AND TO HAVE IT ANSWERED

15 BASED ON SITE INSPECTIONS, THERE'S NO EVIDENCE OF POTENTIAL

16 HEALTH HAZARDS. IT DOESN'T SAY ACTUAL HEALTH HAZARDS. IT

17 SAYS, AS I RECALL, POTENTIAL HEALTH HAZARDS.

18 AND I THOUGHT THESE PEOPLE WERE TAKING CARE

19 OF US. I THOUGHT THEY WERE PROTECTING US. AND I'M BOTHERED

20 BY THAT. I'M GOING TO BE BOTHERED BY THAT FOR A LONG TIME

21 TO COME, BUT I'M BOTHERED BY IT ABOUT THIS PROJECT.

22 AND I WANT TO GET BACK TO THE INACTION OF THE

23 CITY COUNCIL. I THINK THIS THING IS REALLY SIMPLE, IN TERMS

24 OF THIS IS WHAT -- ON YOUR AGENDA IS, I THINK, THE FAILURE

25 OF THE CITY COUNCIL TO ACT.

1 I ATTENDED THE OCTOBER 7TH COUNCIL MEETING,
2 AND I ALSO ATTENDED LAST NIGHT'S COUNCIL MEETING. SO WHY
3 DID THE COUNCIL FAIL TO RATIFY THE ADDENDUM WHEN THEY WERE
4 GIVEN TWO OPPORTUNITIES TO DO SO? THERE WAS A QUORUM
5 PRESENT BOTH TIMES.
6 IF YOU READ THE TRANSCRIPT OF THE OCTOBER 7TH
7 CITY COUNCIL MEETING, AND THERE'S ONLY TWO OR THREE MINUTES
8 OF RELEVANT DISCUSSION, YOU'LL FIND A COUNCIL THAT HAD NOT
9 EVEN SEEN THIS ADDENDUM -- WAS OFFERED THE ADDENDUM ONLY WHEN
10 ONE COUNCIL MEMBER ASKED TO LOOK AT IT. THEY WERE CONFUSED,
11 AND I SUBMIT THEY WERE MISLED BY THE CITY ATTORNEY AND THE
12 CITY STAFF, BECAUSE EVERYONE IS IN SUCH A HURRY TO GET THIS
13 DONE, TO DEAL WITH THE ALLEGED GARBAGE CRISES.
14 THERE WAS NO MOTION, NO DISCUSSION ON THE
15 MERITS. BUT, INSTEAD, I WOULD SAY INDIFFERENCE, EVIDENCED
16 BY THE FACT THAT THE ITEM WAS NOT TABLED FOR A FUTURE
17 MEETING BUT INSTEAD DROPPED, AS YOU HEARD EARLIER.
18 LAST NIGHT THEY DID IT AGAIN. YOUR REQUIRED
19 ACTION WAS ON THE AGENDA AND ONCE AGAIN IT WAS NOT EVEN
20 DISCUSSED. THE REASON GIVEN WAS THE ABSENCE OF ONE COUNCIL
21 MEMBER DUE TO ILLNESS -- AND, OF COURSE, WE CERTAINLY WISH
22 HER A SPEEDY RECOVERY.
23 THE REAL REASON WAS THAT, IN SPITE OF A
24 QUORUM BEING PRESENT, AND ALTHOUGH ACTION WAS TAKEN BY THIS
25 SAME COUNCIL ON OTHER ITEMS THAT SAME NIGHT USING THAT

1 QUORUM, THE COUNCIL RECEIVED A LETTER FROM THE HUMBOLDT
2 COUNTY WASTE AUTHORITY ASKING THAT THE REVIEW BE POSTPONED
3 BECAUSE THE WASTE AUTHORITY WANTED THIS CONSIDERED BY THE
4 FULL COUNCIL.
5 THIS IS IN CONTRAST TO THE WASTE AUTHORITY
6 NOT COMPLAINING WHEN THREE OF OUR SEVEN-MEMBER PLANNING
7 COMMISSION MEMBERS WERE ABSENT AND VOTED ON THEIR PROJECT.
8 AND, OF COURSE, VOTED TWO-TO-TWO NOT TO ISSUE THE
9 CONDITIONAL USE PERMIT.
10 WHY DO THEY WANT THIS DELAY NOW? BECAUSE
11 THEY'RE IN A HURRY, BUT EXCEPT WHEN THEY WANT TO CONTROL
12 THIS PROCESS. THEY'RE CONTROLLING OUR PLANNING COMMISSION.
13 THEY'RE CONTROLLING OUR CITY COUNCIL. AND THEY ARE TRYING TO
14 CONTROL RATIFICATION OF THIS ADDENDUM WHEN IT'S OBVIOUS THAT
15 OUR CITY COUNCIL IS INDIFFERENT AND UNINFORMED.
16 IF A FLU ATTACK STRIKES ARCATA IN TWO WEEKS --
17 AND ONCE AGAIN THERE'S THE WRONG COUNCIL MEMBER MISSING --
18 THEN YOU WILL AGAIN FIND THE WASTE AUTHORITY COMING TO YOU
19 WANTING TO POSTPONE THIS AGAIN. AND YOU WILL FIND THE
20 COUNCIL, EVEN WITH A QUORUM, WAITING STILL AGAIN UNTIL THE
21 POLITICAL CLIMATE IS RIGHT FOR THE PROMOTERS OF THIS
22 PROJECT.
23 TO ME THIS MEANS THE WASTE AUTHORITY IS
24 TRYING TO CONTROL YOUR PROCESS, THE PROCESS THAT IS YOURS.
25 AND WE IN ARCATA ARE TIRED OF WAITING. AT LEAST 500, AND

1 I'M SURE MORE, PEOPLE HAVE SIGNED PETITIONS, WRITTEN LETTERS
2 OPPOSING THIS PROJECT.
3 BUT THEY'RE ALSO OUTRAGED AT THE FACT THAT
4 UNDER THIS ADDENDUM THERE APPEARS TO BE TWO, NOT JUST ONE,
5 TRANSFER STATIONS. WE HAVE LOST SELF-HAUL. AND WE'RE
6 PAYING 30 PERCENT HIGHER RATES FOR THIS NEW SYSTEM THAN FOR
7 OUR EXISTING, PERMITTED LANDFILL THAT IS STILL OPEN. THERE
8 IS NO GARBAGE CRISES.
9 SO I'LL JUST STICK TO THAT AND URGE YOU TO
10 REVOKE THIS PERMIT FOR THE TWICE-REPEATED FAILURE OF THE
11 CITY OF ARCATA TO RATIFY THIS ADDENDUM, AND ABSOLUTELY NO
12 REASON TO THINK THAT THEY'LL DO IT AGAIN (SIC). AND TO
13 RESCIND THE CEQA CERTIFICATION FOR THE FAILURE TO DISCLOSE
14 TO THE CITIZENS THE IMPACTS CAUSED BY THIS ADDENDUM.
15 AND IN PART OF THE PACKET MAILED TO YOU IS A
16 CHART WHICH, AT LEAST IN MY VIEW, SUMMARIZES THE BEFORE AND
17 AFTER CONSEQUENCES OF THE ADDENDUM IN TERMS OF IMPACTS.
18 I'LL BE GLAD TO ANSWER ANY QUESTIONS, IF YOU
19 HAVE SOME.

20 CHAIRMAN PENNINGTON: THANK YOU.

21 MR. KNAPP: THANK YOU.

22 CHAIRMAN PENNINGTON: OKAY. NEXT WE'LL HAVE AARON
23 ISHERWOOD.

24 MR. ISHERWOOD: GOOD EVENING, AARON ISHERWOOD.

25 I'M WITH SHUTE, MIHALY & WEINBERGER, A LAW FIRM. WE

1 REPRESENT THE ARCATA CITIZENS THAT YOU'VE HEARD FROM
2 TONIGHT. I'M VERY PROUD TO REPRESENT THEM AND THE REST OF
3 THEIR GROUP. I WILL BE VERY BRIEF.
4 I REALLY HAVE ONLY ONE POINT TO MAKE. AND
5 THAT IS, YOU SHOULD NOT BE FACED WITH THIS SOIL
6 CONTAMINATION ISSUE THIS EVENING. ALL OF THIS SHOULD HAVE
7 BEEN DEALT WITH AS PART OF THE CEQA PROCESS. IT SHOULD HAVE
8 BEEN IN THE NEG DEC. IT'S REALLY THAT SIMPLE.
9 NOW, I'VE GOT A LETTER HERE FROM ANNE MUDGE,
10 COUNSEL FOR THE AUTHORITY, SAYING THE SOILS ISSUE IS JUST
11 ANOTHER PLOY BY NORCAL TO TRY TO DERAIL THE PROJECT. AND
12 THEY SAY, GOSH, GEE WILLIKERS, YOU KNOW, THE CITY DIDN'T
13 EVEN KNOW ABOUT THIS UNTIL AFTER YOU ACTED ON THE ADDENDUM.
14 WELL, I'M SORRY, BUT THE WHOLE POINT OF CEQA
15 IS THAT YOU'RE SUPPOSED TO INVESTIGATE THE CONDITIONS THAT
16 ARE ON THE SITE, DISCLOSE THAT TO THE PUBLIC BEFORE THE
17 PROJECT IS APPROVED.
18 AND I HATE TO QUOTE FROM COURT DECISIONS, BUT
19 I HAVE TO PULL THIS ONE OUT BECAUSE IT'S SO APROPOS. IN THE
20 SUNSTRUM CASE THE COURT SAID THE AGENCY SHOULD NOT BE
21 ALLOWED TO HIDE BEHIND ITS OWN FAILURE TO GATHER RELEVANT
22 DATA. AND THAT S EXACTLY WHAT'S GOING ON HERE.
23 IT JUST SHOULDN'T HAPPEN THIS WAY. THE CEQA
24 REVIEW SHOULD NOT OCCUR AFTER THE PROJECT HAS BEEN APPROVED.

1 AND IT'S FOR. THAT REASON, I THINK, AS WELL AS THE FACT THAT
2 THE CITY HAS YET TO TAKE ACTION ON THE ADDENDUM, THAT YOU
3 SHOULD RESCIND YOUR CERTIFICATION OF THE CEQA APPROVAL.
4 THANK YOU.

5 CHAIRMAN PENNINGTON: OKAY. THANK YOU.

6 ANY QUESTIONS?

7 OKAY. WE'VE GOT MR. TYLER AND ANNIE MUD GE.

8 WHICH ONE WANTS TO GO FIRST?

9 MR. TYLER: I'D LIKE TO START WITH A POINT OF
10 CLARIFICATION THAT BOARD MEMBER EATON BROUGHT UP. THE
11 DOCUMENT THAT MR. GAMBELIN FROM NORCAL WAS READING FROM IS
12 THIS DOCUMENT IN MY RIGHT HAND. ON PAGE FOUR OF SEVEN, I
13 BELIEVE, I'D DIRECT YOU TO THE TOP OF THE PAGE IF YOU HAVE
14 THAT DOCUMENT IN FRONT OF YOU. THERE ARE TEST RESULTS FOR
15 TPHD, MOTOR OIL, DIESEL, WITH RESULTS ACCORDINGLY.
16 NOW, I WOULD DIRECT YOU IN MY LEFT HAND I
17 HAVE THE DOCUMENT THAT IS DATED OCTOBER 27TH TO MR. SCOTT
18 FARLEY FROM WINDSOR AND KELLY, MR. STEVE SALZMANN. AND I
19 WOULD DIRECT YOU TO THE THIRD PAGE, WHICH IS THE FIRST TABLE
20 OF RESULTS. AND YOU WILL NOTICE THAT, GOING DOWN THE LIST
21 ON YOUR LEFT, UNDER HYDROCARBONS YOU WILL COME TO MOTOR OIL,
22 WITH A CLEANUP. AND YOU WILL SEE -- I'M SORRY, BACK UP ONE.
23
24 YOU WILL SEE THAT THAT'S THE SAME NUMBER, 710 UNDER NUMBER
25 SEVEN.

1 THESE TEST RESULTS ARE THE SAME. LASTLY --

2 DID YOU FIND THAT? ARE WE ALL THERE?

3 OKAY. LASTLY, I WOULD DIRECT YOU TO PAGE

4 TWO, PRECEDING THE TABLE, TO THE SECOND PARAGRAPH ON PAGE

5 TWO TO MR. SCOTT FARLEY, FROM MR. STEVE SALZMANN. AND I

6 WONT READ THE WHOLE THING AND BORE YOU, BUT THE VERY FIRST

7 SENTENCE SAYS: "IT APPEARS THAT THE SOIL STOCKPILE IS

8 LIGHTLY CONTAMINATED WITH MOTOR OIL AND DIESEL." AND IN

9 BRACKETS IT SAYS, "AVERAGE LESS THAN A HUNDRED PARTS PER

10 MILLION," NOT PER BILLION. "AND FIVE PARTS PER MILLION,

11 RESPECTIVELY."

12 MEMBER EATON: THANK YOU.

13 MR. TYLER: WE ARE TALKING APPLES AND APPLES OF THE SAME

14 COLOR.

15 THANK YOU.

16 MEMBER JONES: MAY I ASK A QUESTION?

17 CHAIRMAN PENNINGTON: SURE.

18 MEMBER JONES: WHERE IT SAYS UNITS UG/G, WHAT DOES

19 THAT STAND FOR?

20 MR. TYLER: UG/G IS SPECIFIC TO SOIL SAMPLING.

21 MEMBER JONES: BUT, I MEAN, WHERE ARE YOU GETTING THE

22

23 CHAIRMAN PENNINGTON: HE DIDN'T ANSWER YOU. WHAT

24 DOES IT MEAN?

25 MR. TYLER: PARTS PER MILLION.

1 MEMBER FRAZEE: MICROGRAMS PER GRAMS.

2 MEMBER JONES: SO PARTS PER MILLION.

3 MR. TYLER: EXCUSE ME. THE "U" IS -- YOU'RE

4 ABSOLUTELY CORRECT, MR. FRAZEE, ITS MICROGRAMS AS OPPOSED
5 TO MILLIGRAMS.

6 MEMBER FRAZEE: PER GRAM.

7 MEMBER JONES: AND IT EQUATES TO --

8 MR. TYLER: I'M SORRY?

9 MEMBER JONES: -- PARTS PER --

10 MR. TYLER: WHICH ONE?

11 CHAIRMAN PENNINGTON: UG/G. WHAT IS --

12 MR. TYLER: PARTS PER BILLION.

13 MEMBER JONES: PARTS PER BILLION. SO THE REPORT THAT
14 ALSO SAYS, OR THAT SHOWS THE DETECTION IN PARTS PER
15 BILLION, BUT THE LETTER YOU'RE REFERRING TO SAYS PARTS PER
16 MILLION?

17 MR. TYLER: THAT'S CORRECT. THAT S A HIGHER
18 CONCENTRATION.

19 MEMBER JONES: OKAY.

20 MR. TYLER: DOES THAT MAKE SENSE?

21 MEMBER JONES: NO, IT DOES. I WANTED TO -- THE LEVEL
22 -- WHAT IS THE LEVEL THAT IS ACCEPTABLE? WHAT IS THE
23 THRESHOLD LEVEL OF WHAT IS CONTAMINATED?

24 MR. TYLER: THAT'S NOT A QUESTION I CAN ANSWER
25 IT DEPENDS ON THE POLLUTANT. IT DEPENDS ON TITLE 22.

1 MEMBER JONES: THESE TWO POLLUTANTS AND --

2 MR. TYLER: OKAY. SPECIFICALLY --

3 MEMBER JONES: -- THERE IS A LEVEL THAT YOU TEST TO.

4 AND THIS ONE DOESN'T SAY WHETHER OR NOT IT EXCEEDS IT -- IT

5 EXCEEDS THAT THRESHOLD OR IF IT IS BELOW THAT THRESHOLD.

6 MR. TYLER: I WOULD DIRECT YOU BACK TO THE SAME

7 PARAGRAPH ON PAGE TWO OF MR. SALZMANN'S LETTER

8 MEMBER JONES: UH-HUH.

9 MR. TYLER: WHERE HE SPECIFICALLY IDENTIFIES IN

10 THE NEXT SENTENCE: "NO PCP/TCP WAS DETECTED. THE TOTAL

11 METAL CONCENTRATIONS." AND ONCE AGAIN, I'D PAUSE AND TAKE

12 YOU BACK TO THE TABLE TO REFUTE MR. MACHI'S COMMENT THAT

13 METAL HAS NOT BEEN TESTED. IT, IN FACT, HAS BEEN TESTED,

14 AND THE RESULTS ARE ON THAT TABLE.

15 ALL METALS WERE TESTED. IT'S THE SECOND

16 PORTION OF THE TABLE THAT WE JUST LOOKED AT. OKAY? AGAIN,

17 I'M SORRY TO FLIP YOU BACK AND FORTH, BUT LET'S CONTINUE

18 THAT TEXT ON PAGE TWO. THE TOTAL METAL CONCENTRATIONS WERE

19 WELL BELOW THE HAZARDOUS WASTE LEVELS, TLC SPECIFIED IN TITLE 22,

20 WHICH IS THE CONTROLLING DOCUMENT FOR POLLUTANTS, AND BELOW

21 THE LEVELS WHEN MOST LANDFILLS REQUIRE THAT THE SAMPLES BE RUN

22 FOR SOLUBLE CONCENTRATIONS.

23 DOES THAT ANSWER YOUR QUESTION?

24 MEMBER JONES: RIGHT. AND FURTHER DOWN IT SAYS THAT

25 FULLER LANDFILL IS THE ONLY ONE OF THE FOUR THAT CAN TAKE

1 HYDROCARBONS IN CONCENTRATIONS OF MORE THAN A HUNDRED PARTS
2 PER MILLION?

3 MR. TYLER: THAT'S CORRECT.

4 MEMBER JONES: AND THAT WOULD BE WHAT?

5 MR. TYLER: SPECIFIC TO THE LANDFILL. THERE ARE
6 CERTAIN RESTRICTIONS SET ON THE LANDFILL BY THE STATE AS TO
7 THE LIMIT THAT THEY CAN ACCEPT OF CERTAIN CONSTITUENTS.

8 MEMBER JONES: BECAUSE OF THE LEVEL OF CONTAMINATION?

9 MR. TYLER: DEPENDING ON THE LEVEL OF
10 CONTAMINATION, DEPENDING ON WHETHER THE SITE CHARACTERISTICS
11 ARE SUCH THAT THEY CAN ACCEPT THAT. IT'S ALL UP TO THE
12 STATE. ITS NOT UP TO THE LABORATORY.

13 MEMBER JONES: UNDERSTOOD. AND WHAT I'M SAYING IS
14 THAT IRREGARDLESS IF THEY ARE LOWER THAN 100 PARTS PER
15 MILLION -- BECAUSE WE'RE TALKING ABOUT THE DIESEL, NOT
16 TALKING ABOUT THE METALS RIGHT NOW -- WHAT I HAD ASKED FOR
17 IS WHEN YOU LOOK AT -- IF YOU LOOK AT THIS, YOU KNOW, WHAT
18 IS THE THRESHOLD NUMBER THAT
19 TURNS IT INTO A DESIGNATED WASTE OR A HAZARDOUS WASTE?
20 THERE IS A NUMBER. IT'S NOT ON THIS TABLE.

21 MR. TYLER: THAT'S CORRECT.

22 MEMBER JONES: WHAT DO YOU COMPARE IT TO?

23 MR. TYLER: YOU COMPARE IT TO THE LIMITS THAT ARE
24 SET UNDER TITLE 22, WHICH YOU DO NOT HAVE BEFORE YOU, AND I
25 DO NOT HAVE BEFORE ME.

1 MEMBER JONES: BUT SO TO SAY THAT ITS ONLY A HUNDRED
2 PARTS PER MILLION IS EASY TO SAY. IF THE THRESHOLD IS 20
3 PARTS PER MILLION -- AND I'M NOT SAYING IT IS. I DON'T KNOW
4 THAT, BECAUSE I DON'T HAVE THAT INFORMATION.
5 HAD THE WORK BEEN DONE PRIOR TO TODAY THEN IT
6 WOULDN'T BE AN ISSUE, AND THAT'S WHY WE'RE HERE. RIGHT? WE
7 NEVER EVEN CAME HERE TODAY TO TALK ABOUT OIL. WE CAME HERE
8 TO TALK ABOUT ADDENDUMS TO CEQA. SO WHILE IT'S AN
9 INTERESTING DISCUSSION AND BUILDING A CASE FOR ONE PERSON
10 OR ANOTHER, REMEMBER WE'RE GETTING SUED HERE, TOO.

11 MR. TYLER: I DO.

12 MEMBER JONES: OKAY. UNDERSTAND THAT WE ARE A CATCHER
13 OF LAWSUITS. WE ARE ALSO PROTECTORS OF THE PUBLIC HEALTH
14 AND SAFETY. SO --

15 MR. TYLER: AS IS THE CITY OF ARCATA.

16 MEMBER JONES: I FULLY AGREE WITH THAT. FULLY.

17 MEMBER FRAZEE: ML CHAIRMAN?

18 CHAIRMAN PENNINGTON: ML FRAZEE, GO AHEAD.

19 MEMBER FRAZEE: SOMEONE MAY BE OF HELP TO ME IN
20 UNDERSTANDING THIS CHART. THE RESULT COLUMN IN THE CASE OF
21 SAMPLE NUMBER SEVEN LISTS 710 FOR MOTOR OIL. DOES THE LIMIT
22 COLUMN -- IS THAT THE LIMIT THAT CLASSIFIES THIS? THAT'S
23 NOT THE IMPLICATION OF THE LIMIT?

24 MS TYLER: ARE YOU REFERRING TO THE NORTH COAST
25 LABORATORY INFORMATION? THIS ONE WITH ALL THE NUMBERS ON

1 IT?

2 MEMBER FRAZEE: WELL, YES. YOU'RE RIGHT.

3 MS TYLER: THAT'S THE DETECTABLE LIMIT FOR THAT
4 PARTICULAR TYPE OF TEST, I BELIEVE, BUT I'M NOT ABSOLUTELY
5 POSITIVE. WE AS AN AGENCY DO NOT DO THIS TYPE OF TESTING.
6 SO I AM NOT FAMILIAR WITH THE TESTING PROCEDURE.

7 IF WE HAD SAMPLES TO BE REVIEWED FOR A --
8 POTENTIALLY, TPH, DIESEL, GAS, MOTOR OIL, WHATEVER, WE
9 WOULD SEND THEM TO THE SAME ANALYTICAL LABORATORY.

10 MEMBER FRAZEE: YOU KNOW, I WOULD ASSUME THAT THAT'S WHAT IT
11 IS. BUT THEN YOU LOOK AT SAMPLE NUMBER SIX, AND THE LIMIT IS
12 10 RATHER THAN 200. SO, PERHAPS, DENISE CAN HELP ME WITH THAT.

13 MS TYLER: I'D BE HAPPY TO DEFER.

14 MEMBER FRAZEE: YES.

15 MS. DELMATEIR: IT'S MY UNDERSTANDING THAT THE
16 WATER BOARD SETS THE THRESHOLD AT 50 PARTS PER BILLION,
17 UNDER TITLE 22.

18 MEMBER FRAZEE: OF MOTOR OIL?

19 MEMBER JONES: PER BILLION.

20 MS. DELMATEIR: PER BILLION.

21 MEMBER JONES: A THRESHOLD, MICROSCOPIC AS IT MAY
22 BE, A SMALL, LITTLE, LOW THRESHOLD.

23 CHAIRMAN PENNINGTON: OKAY. MS. TYLER, YOU ARE
24 THROUGH?

25 MR. TYLER: I'M SORRY. I SHOULD CLARIFY THE LAST

1 COMMENT. THAT'S FOR WATER, NOT OIL.

2 MEMBER JONES: SEE. AND THAT'S THE PROBLEM WITH THIS
3 PROCESS.

4 MR. TYLER: NOW WE'RE TALKING APPLES AND
5 GRAPEFRUIT S.

6 MEMBER JONES: THEN WE ARE RELYING ON INFORMATION FROM
7 BOTH PARTIES. AND WE APPRECIATE THAT, BECAUSE WE ARE DEALING
8 WITH A CEQA ISSUE THAT SHOULD HAVE BEEN DEALT WITH BEFORE IF
9 GOT HERE.

10 CHAIRMAN PENNINGTON: RIGHT. WE SHOULD BE TALKING.

11 MEMBER FRAZEE: YEAH.

12 CHAIRMAN PENNINGTON: OKAY. ANNIE MUDGE.

13 MS. MUDGE: GOOD EVENING, ANNIE MUDGE. I'M A
14 PARTNER WITH THE LAW FIRM OF WASHBURN, BRISCOE & MCCARTHY IN
15 SAN FRANCISCO. I REPRESENT THE HUMBOLDT COUNTY WASTE
16 MANAGEMENT AUTHORITY.

17 I HAVE TO TELL YOU THAT I AM QUITE DISMAYED
18 AT THE EVENTS THIS AFTERNOON. I FEEL THAT WE ARE ALL BEING
19 MANIPULATED, AND I'M CONCERNED THAT THIS IS OCCURRING AT
20 ALL. AND I AM, FRANKLY, A LITTLE BIT OUTRAGED THAT ITS
21 OCCURRING, BECAUSE I THINK THAT THE AUTHORITY HAS DEALT
22 WITH YOU IN GOOD FAITH AND WILL CONTINUE TO DEAL WITH YOU
23 IN GOOD FAITH. AND I AM CONCERNED, TRULY CONCERNED THAT
24 THERE IS SOME QUESTION ABOUT WHETHER THAT HAS OCCURRED.
25 AND I'D LIKE TO JUST TAKE YOU BACK TO A TIME

1 WHEN WE CAME BEFORE YOU AND YOU ASKED US IF WE WOULD WAIVE
2 YOUR 60-DAY REQUIREMENT SO THAT YOU COULD GET A QUORUM
3 TOGETHER IN ORDER TO VOTE ON THIS MATTER AND WE AGREED TO DO
4 THAT.

5 AND I ALSO RECALL THAT YOU ASKED US TO HOLD
6 HEARING -- ASKED THE WA TO HOLD A HEARING ON THE SELF-HAUL
7 ISSUE IN RESOLUTION OF CERTAIN PERCEIVED ISSUES, AND THE WA
8 DID THAT.

9 NOW, I'D LIKE TO ADDRESS THE ISSUE OF THE
10 RATIFICATION, BECAUSE I THINK THERE IS QUITE A BIT OF
11 MISINFORMATION GOING AROUND ABOUT WHAT THIS WAS ALL ABOUT,
12 HOW IT HAPPENED, AND WHETHER IT IS A LEGAL REQUIREMENT OR
13 SOME OTHER PROCEDURE THAT WAS PUT TOGETHER FOR THE SOLE
14 PURPOSE OF THIS PERMIT. AND I'D LIKE TO SUGGEST TO YOU THAT
15 IT IS THE LATTER.

16 I WAS PRIVY TO THE DISCUSSIONS ABOUT HOW THE
17 CITY OF ARCATA'S RATIFICATION WOULD COME ABOUT. AND THE
18 CONVERSATION ABOUT THAT FIRST STARTED BETWEEN COUNSEL,
19 BETWEEN NANCY DIAMOND, CITY ATTORNEY OF ARCATA, AND YOUR
20 CHIEF COUNSEL, KATHRYN TOBIAS. AND IT WAS SUGGESTED THAT IT
21 MIGHT BE NICE IF THE CITY OF ARCATA WOULD AGREE TO RATIFY
22 THE BOARD'S ADDENDUM, AS A COURTESY TO THE BOARD'S DECISION
23 TO ELIMINATE THE RAIL-HAUL PORTION OF THE CONTRACT -- EXCUSE
24 ME, OF THE PROJECT. AND I THINK IT WAS YOUR CHIEF COUNSEL'S
25 DESIRE THAT THERE BE JUST SORT OF A CLOSED CIRCLE ON THAT

1 AND CONCURRENCE BY THE LEAD AGENCY IN YOUR ACTION.
2 BUT I'D LIKE TO POINT OUT TO YOU THAT THERE
3 IS NO LEGAL REQUIREMENT THAT THAT OCCUR IN CEQA OR IN ANY
4 OTHER LAW. AND I THINK IT'S BEEN SUGGESTED TO YOU THAT IT
5 IS A VIOLATION OF CEQA THAT THE CITY COUNCIL HAS NOT YET
6 DONE THAT. AND I'M HERE TO TELL YOU THAT THAT IS SIMPLY NOT
7 TRUE. IT IS NOT A VIOLATION OF CEQA OR ANY OTHER LAW.
8 I THINK ANOTHER PROBLEM WITH THIS WHOLE
9 PROCESS IS THAT THE CITY COUNCIL OF ARCATA WAS NOT PRESENT
10 WHEN THIS REQUEST WAS MADE THAT THEY RATIFY THE CHANGE IN
11 THE PROJECT DESCRIPTION. IT WAS DISCUSSED AGAIN IN A
12 MEETING BETWEEN MYSELF, KATHRYN TOBIAS, RALPH CHANDLER, STAN
13 DIXON FOLLOWING -- OH, I CAN'T QUITE REMEMBER, BUT I
14 THINK IT WAS THE DAY BEFORE WE WERE SUPPOSED TO APPEAR
15 BEFORE YOU, AND ONE OF YOUR MEMBERS WAS STUCK IN CANADA.
16 AND THE TIME WAS ABOUT TO RUN, AND IT WAS AGREED THAT IF WE
17 COULD TRY TO GET THE CITY OF ARCATA TO RATIFY THE PROJECT
18 DESCRIPTION AND ALSO HOLD A HEARING BEFORE THE WA THAT
19 THAT WOULD BE SATISFACTORY TO YOUR BOARD.
20 AND SO IT WAS DECIDED THAT WE WOULD BRING THE
21 MATTER TO THE CITY OF ARCATA TO TRY TO HAVE THEM RATIFY IT.
22 BUT IT IS A MISSTATEMENT THAT THE CITY OF ARCATA COMMITTED
23 TO RATIFYING THE ADDENDUM. THEY WERE NOT PRESENT DURING ANY
24 OF THOSE CONVERSATIONS. AND, OF COURSE, THE CITY ATTORNEY
25 OF ARCATA CANNOT DELIVER ANY PARTICULAR OUTCOME FROM HER

1 LEGISLATIVE BODY.

2 I ALSO ECHO WHAT VICTOR SCHAUB SAID, IS THAT

3 I DO THINK THAT WHEN THIS CAME BEFORE THE CITY OF ARCATA FOR

4 THE FIRST TIME THEY WERE CONFUSED ABOUT WHAT THEY WERE BEING

5 ASKED TO DO. AND I THINK THEY WERE PRINCIPALLY CONFUSED

6 BECAUSE THIS PROCEDURE. THIS RATIFICATION OF AN ADDENDUM IS

7 NOT SPELLED OUT ANYWHERE. IT'S NOT PART OF CEQA. IT'S NOT

8 PART OF YOUR PROVISIONS. I'VE NEVER SEEN IT DONE. AND IT

9 DIDN'T GO ALONG WITH ANY ACTION OR APPROVAL BY THE CITY. NO

10 DISCRETIONARY ACTION WAS BEING TAKEN. NO DISCRETIONARY

11 ACTION WAS BEING ASKED OF THEM. AND I THINK THERE IS NO

12 LEGAL SIGNIFICANCE TO THE CITY'S RATIFICATION OF THE

13 ADDENDUM.

14 I THINK THE WA WOULD LIKE TO HAVE THAT

15 HAPPEN. WE WOULD LIKE TO BE ABLE TO FOLLOW THROUGH ON

16 SOMETHING THAT WE ALL THOUGHT WAS GOING TO BE POSSIBLE AND

17 ARE ASKING THE CITY COUNCIL TO CONTINUE THE MATTER YESTERDAY

18 IS AN ATTEMPT TO RETURN TO YOU WITH A RATIFICATION OF THE

19 PROJECT DESCRIPTION. BUT I WOULD LIKE TO SIMPLY STRESS THAT

20 IT IS NOT A VIOLATION OF LAW, OR EVEN A CONDITION OF THE

21 SOLID WASTE FACILITIES PERMIT THAT THAT OCCUR.

22 I ALSO LIKE TO JUST POINT OUT THAT THERE

23 HAVE BEEN A LOT OF ALLEGATIONS ABOUT CEQA VIOLATIONS. THIS

24 MORNING JUDGE ROBIE LOOKED AT MANY OF THE SAME ISSUES THAT

25 HAVE BEEN RAISED BEFORE YOU NOW. AND THE STANDARD BEFORE HIM

1 WAS WHETHER OR NOT THE PLAINTIFFS IN THAT LAWSUIT WERE
2 LIKELY TO PREVAIL ON THE MERITS. SO WE BRIEFED MANY OF
3 THESE ISSUES AND PRESENTED THEM ORALLY BEFORE THE JUDGE A
4 FEW WEEKS AGO. THIS MORNING HE RULED.
5 WE HAVE NOT YET SEEN THE OPINION YET. IT
6 APPARENTLY WILL BE IN TOMORROW
7 MORNING'S MAIL. THIS MORNING HE RULED THAT THE PLAINTIFFS
8 ON THEIR CEQA CAUSES OF ACTION ARE NOT LIKELY TO PREVAIL ON
9 THE MERITS. AND, THEREFORE, HE REFUSED TO STAY THE
10 CONSTRUCTION AND OPERATION OF THIS FACILITY PENDING A FULL
11 HEARING ON THE MERITS.
12 SO I THINK THE JUDGE HAS TAKEN A LOOK AT WHAT
13 I SUPPOSE THE PLAINTIFFS BELIEVE THEIR BEST ISSUES ARE. IF
14 I WERE REPRESENTING THEM, I CERTAINLY WOULD HAVE PUT MY BEST
15 FOOT FORWARD IN BRINGING FORWARD THE ALLEGED CEQA
16 VIOLATIONS. AND HE HAS AGREED WITH US THAT THERE IS A LOT
17 OF SMOKE BUT NO FIRE HERE.
18 ONE OF THE ISSUES THAT HAS BEEN RAISED -- AND
19 I WANT TO BE VERY CLEAR ABOUT THIS -- IS THAT SOMEHOW THE
20 PROJECT THAT'S BEING IMPLEMENTED IS DIFFERENT THAN THE
21 PROJECT THAT YOU APPROVED AND THAT SOMEHOW THAT IS A
22 VIOLATION OF CEQA. FACTUALLY, THAT IS SIMPLY NOT TRUE. THE
23 AUTHORITY IS CARRYING OUT THE VERY PROJECT THAT YOU
24 APPROVED.
25 THE ACTION THAT YOU TOOK WITH THE ADDENDUM

1 WAS TO NARROW THE PROJECT DESCRIPTION TO ELIMINATE THE
2 RAIL-HAUL. WELL, FIRST OF ALL, THE TRANSFER STATION IS NOT
3 OPERATING YET, SO THERE IS NO POSSIBILITY THAT ANY WASTE
4 WOULD BE CARRIED BY RAIL-HAUL. BUT I CAN ASSURE YOU THAT
5 THAT WILL NOT OCCUR WITHOUT FURTHER ENVIRONMENTAL REVIEW,
6 WHICH IS THE CONDITION THAT YOU PLACED UPON THE PERMIT.
7 ON THE ISSUE OF THE SOIL CONTAMINATION, I
8 HAVE BEEN UNFORMED, AND I AM CERTAIN, THAT THE CITY HAD NO
9 ACTUAL KNOWLEDGE OF SOIL CONTAMINATION ON THE SITE WHERE THE
10 EXCAVATION IS TAKING PLACE PRIOR TO THIS BOARD'S ACTION ON
11 SEPTEMBER 17TH. THE TRANSCRIPT THAT HAS BEEN TALKED ABOUT,
12 DATED SEPTEMBER 3RD, REFERS TO THE WA'S KNOWLEDGE OF
13 CONTAMINATION ON AN ADJACENT SITE. WHAT WE HAVE BEEN TRYING
14 TO SAY IS THAT THERE WAS NO ACTUAL KNOWLEDGE OF
15 CONTAMINATION THERE.
16 I THINK THE EXPECTATION WAS THAT THERE WOULD
17 BE NO CONTAMINATION THERE BECAUSE OF STATEMENTS THAT WERE
18 MADE BY THE OWNERS OF THE PROPERTY AND BECAUSE OF THE PHASE
19 ONE AND PHASE TWO THAT WERE DONE ON OTHER AREAS OF THE
20 PROPERTY WHICH ASSURED THE WA AND THE CITY THAT THE
21 CONTAMINATION HAD NOT MIGRATED. SO THE EXPECTATION WAS THAT
22 THERE WOULD BE NO HAZARDOUS CONDITIONS ON THAT SITE. AND I
23 THINK THAT'S THE REASON WHY THE MITIGATED NEGATIVE
24 DECLARATION DID NOT ADDRESS THE ISSUE.
25 THE FACT THAT THERE WAS SOME SOIL

1 CONTAMINATION ULTIMATELY FOUND ON THIS SITE IS NOT
2 SURPRISING GWEN THE HISTORIC USES OF THIS SITE. BUT I'D
3 LIKE TO STRESS THAT IT'S NOT SURPRISING, BECAUSE THE
4 CONTAMINATION IS QUITE MILD. IT IS NOT SURPRISING THAT MANY
5 YEARS OF LUMBER MILLING AND STANDING VEHICLES AND DRIPPING
6 OIL AND SO FORTH -- THAT YOU'RE GOING TO FIND SOME SURFACE
7 LEVELS OF MILD CONTAMINATION.
8 BUT WHAT I HAVE FAILED TO HEAR TONIGHT, AND I
9 THINK HAS BEEN CONFIRMED, IS THAT THIS MILD CONTAMINATION IS
10 NOT A HAZARD TO THE PUBLIC HEALTH. IT WAS NOT EXPECTED BY
11 THE CITY OF ARCATA OR THE JPA TO BE A HAZARD TO PUBLIC
12 HEALTH. AND IT, IN FACT, IS NOT A HAZARD TO PUBLIC HEALTH.
13 AND THAT THE PROJECT OPPONENTS ARE TRYING TO TURN THIS INTO
14 SOMETHING VERY BIG WHEN, IN FACT, IT REALLY IS SOMETHING
15 VERY ROUTINE IN ANY TYPE OF CONSTRUCTION ON A
16 PREVIOUSLY-USED SITE.
17 I'D LIKE TO JUST ADDRESS ONE FINAL --
18 OKAY. I'M GOING TO -- VICTOR, IS THAT
19 SOMETHING YOU'D LIKE TO ADDRESS?

20 MR. SCHAUB: YEAH.

21 MS. MUDGE: BEFORE HE DOES THAT, I WOULD JUST LIKE TO
22 ADDRESS THE ISSUE THAT -- MR. SCHAUB WANTS TO
23 RAISE THE ISSUE ABOUT WHETHER JUDGE ROBIE'S OPINION DEALT
24 WITH THE SOIL CONTAMINATION ISSUE. AND I'LL TELL YOU, I
25 DON'T KNOW BECAUSE I HAVEN'T SEEN THE OPINION. BUT I WILL

1 TELL YOU THAT THE PLAINTIFFS DID NOT RAISE THAT ISSUE BEFORE
2 THE COURT. SO I DOUBT IT ADDRESSES THAT ISSUE.
3 AND I ASK YOU, IF IT IS SUCH A MAJOR CEQA
4 VIOLATION THAT THEY ARE NOW CLAIMING, WHY IT WAS NOT RAISED
5 IN THEIR LAWSUIT? OR IT WAS NOT -- EXCUSE ME. IT IS
6 RAISED AS AN ALLEGATION IN THEIR LAW SUIT. IT WAS NOT
7 RAISED IN THEIR -- IN WHAT I ASSUME THEY CHOSE TO BE THEIR
8 BEST ARGUMENTS TO TRY TO CONVINCE THE COURT TO STAY THE
9 OPERATION. SO IT DID NOT COME UP BEFORE JUDGE ROBIE.
10 MY FINAL POINT IS THAT I THINK YOU ALL WELL
11 KNOW WHAT THE PARAMETERS OF YOUR POWERS ARE IN TERMS OF
12 REVOKING OR RESCINDING A SOLID WASTE FACILITY'S PERMIT. AND
13 THERE'S A LOT OF LAWYERS IN THE ROOM, AND I THINK THEY ALSO
14 KNOW THIS. BUT AT THE RISK OF TELLING YOU THE OBVIOUS, THE
15 SOLID WASTE FACILITIES PERMITS ARE ISSUED BY THE LEA WITH
16 THE CONCURRENCE OF THE BOARD, AND THEY MAY ONLY BE RESCINDED
17 OR REVOKED BY THE LEA.
18 SO NORCAL COMING TO YOU AND ASKING YOU, OR
19 THE CITIZENS COMING TO YOU AND ASKING YOU TO REVOKE A SOLID
20 WASTE FACILITIES PERMIT, THEY ARE NOT FOLLOWING THE PROPER
21 PROCESS. IF THEY WANT TO HAVE THIS PERMIT REVOKED, THEY NEED
22 TO -- SOMEONE NEEDS TO REQUEST A HEARING BEFORE THE LEA.
23 THE LEA THEN HOLDS A HEARING, AND IT CANNOT REVOKE A PERMIT
24 WITHOUT SEVERAL EXPLICIT FINDINGS BEING MADE. NONE OF THOSE
25 FACTS ARE PRESENT HERE. THERE WAS NO MATERIAL

1 MISREPRESENTATION. THERE HAS NOT BEEN A CHRONIC PATTERN OF
2 NONCOMPLIANCE WITH PERMIT CONDITIONS, AND THERE'S A THIRD
3 CRITERIA WHICH ESCAPES ME AT THE MOMENT, BUT IT HAST
4 OCCURRED HERE EITHER
5 SO THIS ATTEMPT TO COME BEFORE THE BOARD AND
6 ASK YOU TO REVOKE A PERMIT IS REALLY BARKING UP THE WRONG
7 TREE. IF THEY'RE SERIOUS ABOUT TRYING TO REVOKE THIS PERMIT,
8 THERE'S ANOTHER PROCESS TO DO THAT. I WOULD SUBMIT TO YOU
9 THAT THAT PROCESS WOULD PROBABLY NOT BE SUCCESSFUL, BECAUSE
10 I DO NOT THINK GROUNDS EXIST FOR REVOCATION. BUT THIS IS
11 NOT THE BODY TO DO THAT. THERE IS ANOTHER PROCESS FOR DOING
12 THAT.

13 I'D BE HAPPY TO ANSWER ANY QUESTIONS.

14 MEMBER JONES: MR. CHAIRMAN.

15 CHAIRMAN PENNINGTON: MR. JONES.

16 MEMBER JONES: I HAD A COUPLE. YOU SAID THAT THIS
17 PROCESS STARTED WHEN WE ASKED YOU TO WAIVE THE 60-DAY CLOCK.

18

19 IF YOU REFER BACK TO OUR MINUTES WHEN YOU FIRST CAME TO THIS
20 BODY ON AUGUST 26TH, THE DETERMINATION THEN -- AND AS THE
21 WA WAS SITTING OUT HERE -- THAT BASICALLY SAD) YOU'VE GOT
22 TO DEAL WITH THIS THUMBS-UP OR THUMBS-DOWN. AND I THINK
23 THAT'S THE CONCURRENCE ISSUE YOU'RE TALKING ABOUT. BECAUSE
24 IF WE DO NOT CONCUR, THERE IS NO PERMIT ISSUED.
25 THE ISSUES THAT CAME FORWARD THAT DAY WERE

1 TAKEN CARE OF IN A -- AS PART OF AN ACTION, PART OF A
2 RESOLUTION, BECAUSE WE GAVE HUMBOLDT COUNTY'S JPA A CHANCE.
3 AND IF YOU LOOK AT THE MINUTES OF THAT MEETING IT SAYS --
4 THIS IS GEORGE M. TURNER WHO WAS PROVIDING THAT INFORMATION
5 THAT -- I DON'T WANT TO READ -- I MEAN, I CAN READ THE
6 WHOLE THING IN. BUT WHAT IT LAID OUT WAS THAT BEFORE THE
7 MEETING IT WOULD BE NECESSARY -- OKAY, LET ME GO:
8 "BASED ON DOCUMENTATION AND TESTIMONY THAT WE
9 RECEIVED TODAY STAFF RECOMMENDED THAT THE BOARD
10 ASK THE APPLICANT TO COME BACK ON THE SEPTEMBER
11 10TH BOARD MEETING. BEFORE THAT MEETING IT WOULD
12 BE NECESSARY FOR THE APPLICANT TO COMPLETELY
13 ADDRESS THE FOLLOWING CEQA ISSUES IN THE
14 APPROPRIATE MANNER."
15 AND THAT COULD BE AN ADDENDUM TO THE
16 MITIGATED NEG DEC, THE ADDENDUM OR OTHER APPROPRIATE
17 DOCUMENTATION TO ADDRESS THE FOLLOWING ISSUES.
18 AND THEY WEREN'T JUST RAIL-HAUL. THERE WERE
19 SEVEN IS SUES. HOW MANY TRUCKS WERE GOING BETWEEN OREGON AND
20 EUREKA. WHAT'S THE PERMANENT PROJECT DESCRIPTION, BECAUSE
21 THAT WAS FLUID AS OF THE DAY OF THE MEETING? AND THAT IT'S
22 GOT TO EXCLUDE RAIL-HAUL, BECAUSE IT WASN'T ADDRESSED IN THE
23 ITEM. MITIGATION -- THERE SHOULD BE A MITIGATION MEASURE FOR
24 SELF-HAUL. WA SHOULDN'T USE THIS DOCUMENT FOR THE
25 PERMANENT FACILITY.

1 WE WENT THROUGH ALL OF THESE ISSUES. AND
2 THEN IT SAID:
3 “AND ITS MY UNDERSTANDING THAT THE APPLICANT
4 IS UNWILLING TO PUSH THIS ITEM OR CARRY IT OVER TO
5 SEPTEMBER 10TH. AND YOU MAY FEEL A LITTLE BIT
6 DIFFERENTLY NOW, BUT IF THAT’S THE CASE THEN STAFF
7 DOES NOT HAVE ADEQUATE CEQA DOCUMENTATION TO
8 SUPPORT THAT PROJECT.”
9 OKAY. THAT WAS THE ITEM THAT HAPPENED. YOU
10 KNOW, IT’S EASY TO REFER BACK TO SEPTEMBER 10TH, BUT YOU
11 HAVE TO GO TO THE MEETING BEFORE THAT. AND THE MEETING
12 BEFORE THAT WAS THIS BOARD WORKING IN A MANNER OF TRYING TO
13 ACCOMMODATE THE HUMBOLDT WA. TRYING TO WORK WITH THE WA
14 TO SAY, “LOOK, THIS THING ISN’T READY, DON’T FORCE US TO GO
15 UP OR DOWN. WE CAN’T COUNT VOTES HERE.” OKAY. IT’S NOT OUR
16 -- I MEAN, WE CAN -- THEY DO.
17 I DON’T KNOW WHAT WOULD HAVE HAPPENED THAT
18 DAY, BUT I WILL GUARANTEE YOU THAT, JUDGING BY THE
19 QUESTIONS, IT WAS A WISE MOVE FOR THEM TO LEAVE. BECAUSE I
20 DON’T -- I’M NOT SURE, AND I’M NOT GOING TO SPEAK FOR
21 ANYBODY THAT WAS ON THAT DAIS, BUT HAD THAT ACTION BEEN
22 TAKEN AND IT GOT VOTED DOWN YOU WOULDN’T HAVE A PERMIT.
23 SO WE OFFERED TO DO THAT. BUT WE SAID
24 BEFORE YOU COME BACK TO THE MEETING ON SEPTEMBER 10TH, FIX
25 THIS CEQA DOCUMENT. ON SEPTEMBER 8TH IS WHEN YOU WERE IN

1 TOWN. OKAY. THE DOCUMENT STILL HADN'T BEEN FIXED. AND ALL
2 THOSE DISCUSSIONS, JUST LIKE YOU AND THE ATTORNEY DON'T
3 REPRESENT THE ARCATA CITY COUNCIL, NOR DOES OUR ATTORNEY.
4 OKAY. THEY REPRESENT US, BUT SHE CANNOT VOTE FOR US.
5 SO I THINK ITS FAIR FOR YOU TO SAY THAT YOU
6 WAIVED THE TIME CLOCK, AND YOU DID ALL THESE TYPES OF THINGS
7 TO GET-- BUT I THINK IT ALSO NEEDS TO--AND WHAT GOES
8 TO THE CORE OF THIS ISSUE, IT ISN'T THE OIL, IT ISN'T ANY OF
9 THOSE TYPES OF THINGS. IT IS THE FACT THAT THE JPA LEFT
10 HERE ON AUGUST 26TH KNOWING THAT CEQA WAS NOT ADEQUATE FOR
11 US TO TAKE AN ACTION. AND WE TOLD YOU TO FIX IT.
12 AND IN THOSE NEGOTIATIONS THE ITEM OF THE
13 ARCATA – I'M SORRY, OF THE SELF-HAUL, IT WAS EXPLAINED BY
14 YOU, AND BY GAVERICH AND BY THE REST OF THEM THAT THAT
15 WASN'T APPROPRIATE FOR THE CITY OF ARCATA. ALL THE OTHER
16 ISSUES WERE, BUT THAT ONE PIECE WASN'T. SO I THINK WE ALL
17 SAID THAT'S FINE. GO AHEAD AND MOVE THAT OVER TO THE OTHER
18 SIDE. THAT'S NOT A PROBLEM.
19 AND THEN ON THE 17TH, YOU HAVEN'T DONE IT. YOU
20 HADN'T DONE THE ADDENDUM. AND THE WORD WAS, "YOU GUYS GO
21 AHEAD AND DO IT, WE WILL GET IT DONE RIGHT AFTER. BECAUSE
22 IF YOU DON'T, NORCAL HAS A HAMMER TO OUR HEAD."

23 MS. MUDGE: EXCUSE ME, MR. JONES. WHAT DO YOU
24 MEAN THAT WE HAD NOT DONE THE ADDENDUM?

25 MEMBER JONES: THE DIRECTIONS ON AUGUST 26TH WERE

1 DON'T COME BACK HERE UNTIL YOU HAVE FIXED CEQA. YOU CHOSE
2 NOT TO.

3 MS. MUDGE: I HAVE TO BEG A DIFFER WITH YOU. THE
4 STAFF OF THE HUMBOLDT COUNTY WASTE MANAGEMENT AUTHORITY AND
5 YOUR STAFF WORKED VERY CLOSELY TOGETHER TO CRAFT THE
6 ADDENDUM DURING THAT PERIOD. AND TO MY KNOWLEDGE, IT WAS
7 THEN PRESENTED TO YOU IN FINAL FORM ON SEPTEMBER 17TH, IN
8 THE FORM IN WHICH YOU ULTIMATELY APPROVED IT.

9 MEMBER JONES: RIGHT. WHICH WAS OUR ADDENDUM SO
10 THAT WE COULD ACT, AND THERE WAS GOING TO BE AN ACTION BY
11 THE ARCATA CITY COUNCIL, LESS THE DISCUSSION ABOUT THE
12 SELF-HAUL.

13 AND THEN -- SO THAT'S GOING BACK TO THAT
14 TIME. AND THEN WE READ THE INFAMOUS ARCATA EYE. AND AFTER
15 THE ISSUE ABOUT THE COUNCIL DUMPS THE WASTE RATIFICATION,
16 CITY MANAGER SAYS LACK OF THE DECISION SIMPLY MEANS THAT IF
17 THERE'S EVER AN ENFORCEMENT ISSUE THAT THE ISSUE THAT WAS
18 TO BE RATIFIED, SPECIFICALLY DELETION OF RAIL FROM THE
19 PROJECT, IT'D BE UP TO THE STATE, NOT THE COUNTY, TO ENFORCE
20 THAT.

21 MS. MUDGE: DO YOU HAVE A QUESTION FOR ME OR--

22 MEMBER JONES: MY QUESTION IS -- AND I DO ENJOY
23 READING ALL THESE DIFFERENT DOCUMENTS, BUT I WISH I WASN'T
24 HERE RIGHT NOW.

25 BUT MY QUESTION IS, YOU HAD MADE A COMMENT

1 THAT THIS THING STARTED ON SEPTEMBER 17TH. DO YOU AGREE
2 THAT IT STARTED ON AUGUST 26TH, WHEN YOU FIRST CAME IN FRONT
3 OF TI{IS BOARD?

4 MS. MUDGE: I DON'T HAVE THE TRANSCRIPT IN FRONT
5 OF ME. IF I SAID IT STARTED ON SEPTEMBER 17TH, THAT WAS A
6 MISSTATEMENT. ONE OF THE EVALUATIONS THAT I WAS INVOLVED IN
7 BEGAN ON THAT DATE. YOU'RE ABSOLUTELY CORRECT THAT THE
8 PROCESS STARTED BEFORE THAT TIME.

9 MEMBER JONES: SO IT IS FAIR, THEN, TO -- OKAY. I
10 JUST WANTED THAT CHARACTERIZED.
11 AND THEN YOU ALSO SAID, AND IT MAY JUST BE
12 MIS SPOKEN, THAT THE CONTAMINANTS WEREN'T EXPECTED BY YOU OR
13 THE WA OR, I MEAN, BY THE CITY OF THE WA TO BE A
14 PROBLEM. OKAY. YOU SAID IT WASN'T EXPECTED THAT THOSE
15 WOULD BE A PROBLEM.
16 AT WHAT POINT DID YOU MAKE THAT
17 DETERMINATION? PRIOR TO THE ISSUANCE OR--

18 MS. MUDGE: I CAN'T ANSWER THAT QUESTION. I WAS
19 NOT PART OF THE LEGAL TEAM AT THAT TIME. MY UNDERSTANDING
20 IS, IS THAT THEIR THINKING WAS THAT THERE WOULD NOT BE HIGH
21 LEVELS OF CONTAMINATION AT THIS SITE, AND IT WAS, THEREFORE,
22 NOT FOREMOST ON PEOPLE'S MINDS, OR FOREMOST IN IRE MITIGATED
23 NEGATIVE DECLARATION. AND, IN FACT, THAT IS, IN FACT, WHAT
24 HAS TURNED OUT TO BE TRUE.

25 CHAIRMAN PENNINGTON: LET ME ASK YOU, I TAKE IT

1 FROM YOUR STATEMENT THAT YOU FEEL THAT IT'S NOT REALLY
2 NECESSARY FOR THEM TO ADOPT THE ADDENDUM THAT THE CITY
3 COUNCIL REALLY DOESN'T NEED TO DO THAT?

4 MS. MUDGE: POLITICALLY, I THINK IT WOULD BE A
5 GOOD IDEA IF THEY DID, BECAUSE YOU WOULD LIKE THEM TO.
6 LEGALLY IT IS NOT A REQUIREMENT OF CEQA OR ANY OTHER LAW.
7 THERE IS NO REQUIREMENT THAT THE LEAD AGENCY RATIFY AN
8 ADDENDUM OF A RESPONSIBLE AGENCY.
9 PROJECTS CHANGE IN SCOPE ALL THE TIME WHEN
10 THEY GO FROM A, SAY, CITY COUNCIL TO BCDC, WHO HAS
11 JURISDICTION OVER THE BAY. BCDC WILL REORIENT BUILDINGS OR
12 CHANGE VIEW CORRIDORS, OR IT WILL CHANGE THE PROJECT AND
13 WILL ADOPT AN ADDENDUM. IT IS NOT -- IN FACT, I HAVE NEVER
14 SEEN IT DONE OR REQUESTED THAT THE LEAD AGENCY THEN GO BACK
15 AND CONCUR IN THE CHANGES THAT A RESPONSIBLE AGENCY MADE TO
16 A PROJECT DESCRIPTION.
17 IT WAS SUGGESTED THAT THAT BE DONE HERE, AND
18 I THINK WE TRIED AND ARE CONTINUING TO TRY TO MAKE THAT
19 HAPPEN.

20 CHAIRMAN PENNINGTON: IF YOU DON'T BELIEVE THAT
21 IT'S NECESSARY, WHY DID YOU NEGOTIATE IT? WHY DID YOU, WITH
22 OUR LAWYERS AND WITH MR. CHANDLER, NEGOTIATE THIS DOCUMENT,
23 DEBATE THIS DOCUMENT WITH US? WHY DID YOU DO THAT IF YOU
24 DIDN'T BELIEVE THAT YOU NEEDED TO DO THAT?

25 MS. MUDGE: IT WAS NOT OUR POINT OF NEGOTIATION.

1 IT WAS SOMETHING THAT YOUR BOARD WANTED VERY MUCH. WE NEVER
2 FELT IT WAS NECESSARY.

3 CHAIRMAN PENNINGTON: I DON'T THINK THAT'S TRUE AT
4 ALL. I THINK THAT WE WERE WILLING TO DO THAT EVEN THOUGH MY
5 COLLEAGUE, MR. JONES, WON'T, THAT THIS BOARD WOULD HAVE DENIED
6 THAT PERMIT HAD THAT NEGOTIATION NOT GONE ON. AND I THINK THAT
7 THEY KNEW THAT. I THINK THAT THE PEOPLE FROM ARCATA KNEW
8 THAT THERE WAS A VERY STRONG SENTIMENT THAT CEQA HAD NOT
9 BEEN MET AND THAT WE PROBABLY WERE NOT GOING TO CONCUR IN
10 THAT PERMIT. AND SO YOU WERE WILLING TO NEGOTIATE.
11 ONCE YOU GOT OUR VOTE ON IT, THEN YOU GO AND
12 SAY, "WELL, NO, IT'S NOT SO IMPORTANT NOW. WELL, WE DON'T
13 REALLY FEEL THAT WAY, OR I DON'T FEEL THAT WAY, I GUESS I
14 SHOULD SAY."

15 MS. MUDGE: I THINK THERE'S A
16 MISUNDERSTANDING ABOUT WHAT IS BEING CARRIED OUT AND WHAT
17 THE COMMITMENTS OF THE WA ARE. THE COMMITMENTS OF THE WA
18 ARE TO CARRY OUT THE PERMIT AS YOU HAVE APPROVED IT, DOWN TO
19 EVERY JOT AND TITTLE.
20 IT IS NOT NECESSARY FOR THE CITY OF ARCATA TO
21 CONCUR IN YOUR -- OR TO RATIFY YOUR ADDENDUM IN ORDER FOR
22 THAT TO HAPPEN. YOU HAVE THE INDEPENDENT AUTHORITY TO ORDER
23 THE WA TO OPERATE ITS SOLID WASTE FACILITIES PERMIT IN THE
24 WAY THAT YOU HAVE AUTHORIZED IT TO AND -- OR UNDER THE
25 PERMIT AS IT HAS BEEN ISSUED. AND WE INTEND TO FOLLOW THAT.

1 THERE IS NO ATTEMPT TO DO ANYTHING OTHER THAN THAT.

2 CHAIRMAN PENNINGTON: WOULD YOU NOT AGREE, THOUGH
3 THAT THREE MEETINGS THAT HAVE HAD QUORUMS AT THEM, THAT THEY
4 HAVEN'T TAKEN THE ISSUE UP? THAT THEY HAVEN'T TAKEN THE
5 ISSUE UP MAKES ONE BELIEVE THAT MAYBE THEY DON'T WANT TO
6 TAKE THE ISSUE UP, OR THEY'RE AFRAID TO TAKE THE ISSUE UP,
7 OR THEY DON'T WANT TO KEEP THEIR COMMITMENT TO US, OR THE
8 COMMITMENT THAT YOU GAVE US?

9 MS. MUDGE: I THINK THAT'S PART OF THE ISSUE.
10 I REALLY DON'T THINK IT CAN BE SAID HERE THAT THE CITY OF
11 ARCATA EVER COMMITTED TO DOING THIS.

12 CHAIRMAN PENNINGTON: WELL, I THINK WE WERE CERTAINLY
13 LED TO BELIEVE THAT THEY HAD COMMITTED TO IT.

14 MS. MUDGE: I THINK WE EXPECT THEM TO DO THAT.
15 IT COMES AS NO SURPRISE TO YOU THAT THERE IS -- YOU KNOW,
16 THERE IS POLITICAL OPPOSITION TO THIS PROJECT IN ARCATA.
17 AND BY THE WAY, I DID WANT TO ADDRESS ONE
18 ISSUE, MR. JONES. I THINK WHAT YOU -- YOU HAD MENTIONED --
19 AND I WAS PRESENT IN SOME OF THE MEETINGS ON SEPTEMBER 8TH
20 IN WHICH MR. DIXON AND MR. BENNEMAN TALKED ABOUT THE
21 UNANIMITY OF THE DETERMINATION THAT ALL THE CITY OFFICIALS
22 IN HUMBOLDT COUNTY HAD AGREED TO TAKE A CERTAIN ACT. THAT
23 WAS TO AWARD THE CONTRACT TO ECDC. SO PERHAPS YOU THOUGHT
24 THAT WE WERE REFERRING TO THE CITY COUNCIL OF ARCATA,
25 DETERMINATION ON THE PROJECT. SO I JUST WANTED TO CLARIFY

1 THAT ISSUE.

2 MEMBER JONES: IT WAS OFFERED IN TESTIMONY HERE,
3 THOUGH, THAT EVERYBODY IN THE STATE HAD APPROVED IT. I
4 MEAN, EVERYBODY IN THE JURISDICTION HAD APPROVED IT IN
5 TESTIMONY IN ONE OF OUR HEARINGS.

6 MS. MUDGE: THAT WAS REFERRING TO THE WA'S
7 MEMBERS' APPROVAL OF THE ECDC CONTRACT.
8 SO I THINK, YOU KNOW, IT IS NO SURPRISE THAT
9 THIS ISSUE IS POLITICALLY SENSITIVE IN ARCATA. THAT IS
10 SIMPLY THE TRUTH.
11 WE ARE TRYING TO BRING THAT MATTER BACK TO
12 THE CITY COUNCIL, AND IT IS CALENDARED IN TWO WEEKS' TIME.
13 AS I STAND HERE, I CANNOT TELL YOU WHAT THE CITY COUNCIL IS
14 GOING TO DO. BUT WE ARE ACTING IN GOOD FAITH TO FOLLOW
15 THROUGH ON WHAT WE SAID WE WOULD DO.

16 CHAIRMAN PENNINGTON: YOU KNOW, I DON'T MEAN TO BE
17 ARGUMENTATIVE, BUT IT DOESN'T SEEM TO ME TO BE VERY GOOD
18 FAITH WHEN WE HAVE ALL THESE THINGS, AND THEN YOU STAND
19 THERE AND TELL US, "WELL, WE REALLY DIDN'T NEED TO DO THAT
20 --
21 THAT WE JUST WERE KIND OF PLACATING YOU ALL." THAT DOESN'T
22 SOUND LIKE VERY GOOD FAITH TO ME, THAT AFTER THE FACT, AFTER
23 WE AGREED TO ALL OF THIS, AND YOU WERE INVOLVED IN IT, AND
24 WE THEN SAT HERE AS A BODY AND ADOPTED THAT, AND VOTED FOR
25 THE PERMIT THAT YOU ALL WANTED, THAT IT DOESN'T SOUND LIKE

1 VERY GOOD FAITH THEN WHEN YOU SAY, "WELL, YOU KNOW, YOU
2 REALLY DIDN'T NEED TO DO THAT, BECAUSE WE DOT THINK WE
3 NEED IT."

4 MS. MUDGE: WELL, I THINK MR. CHANDLER --

5 CHAIRMAN PENNINGTON: AND WE CANT DO ANYTHING
6 ABOUT IT IS WHAT YOU'RE TELLING US.

7 MS. MUDGE: I THINK ML CHANDLER WILL VOUCH
8 FOR ME THAT I DID, IN FACT, SAY THAT. THAT THIS WAS NOT A
9 LEGAL REQUIREMENT, BUT THAT WE WOULD NONETHELESS TRY TO MAKE
10 IT HAPPEN.

11 AND PERHAPS I NEED TO ALSO --

12 CHAIRMAN PENNINGTON: WELL, PERHAPS WE SHOULDN'T
13 HAVE OPERATED IN SUCH GOOD FAITH.

14 MS. MUDGE: PERHAPS WE SHOULD NOT HAVE?

15 CHAIRMAN PENNINGTON: THIS BOARD?

16 MEMBER JONES: NO, US.

17 MS. MUDGE: WELL, WE FEEL WE HAVE OPERATED IN
18 VERY GOOD FAITH WITH YOU.

19 BUT I WANT TO JUST--

20 CHAIRMAN PENNINGTON: I DON'T.

21 MS. MUDGE: -- REITERATE THAT MY POINT ABOUT
22 THE LEGAL NECESSITY OF THIS IS REALLY DIRECTED TO NORCAL.
23 THEY HAVE ARGUED THAT THIS IS A VIOLATION OF CEQA. AND MY
24 POINT HERE IS THAT IT IS NOT A VIOLATION OF CEQA --

25 CHAIRMAN PENNINGTON: LET ME JUST INTERRUPT YOU

1 THERE, THOUGH. OUR STAFF SAID THAT YOU DIDN'T MEET CEQA
2 UNTIL THAT ADDENDUM WAS DRAFTED. THEY SAID -- THEY SAT HERE
3 AND SAID THAT THEY WOULD HAVE TO RECOMMEND DENIAL OF THE
4 PERMIT BASED UPON THE FACTS IN FRONT OF THEM. AND THEN WE
5 WENT AND NEGOTIATED THE ADDENDUM, AND THEN WE AGREED TO IT.
6 SO I DON'T KNOW THAT WE -- WITHOUT THAT
7 ADDENDUM. WE DON'T THINK THAT CEQA WAS MET.

8 MS. MUDGE: THE ADDENDUM WAS VALIDLY ADOPTED
9 BY YOU. THAT WAS THE END POINT OF THE CEQA PROCESS. AND SO
10

11 CHAIRMAN PENNINGTON: WELL, IT'S LATE. AND THERE'S
12 NO NEED TO GO OVER THIS AGAIN. BUT --

13 MS. MUDGE: WHAT I'M TRYING TO JUST CONCLUDE
14 WITH IS THAT THE NEXT STEP THAT YOU SAY THAT YOU ARE LOOKING
15 FOR IS NOT NECESSARY TO MAKE THE CEQA PROCESS VALID.
16 THANK YOU.

17 MEMBER FRAZEE: MR. CHAIRMAN?

18 CHAIRMAN PENNINGTON: YES, MR. FRAZEE?

19 MEMBER FRAZEE: I DON'T HAVE A QUESTION --

20 CHAIRMAN PENNINGTON: WAIT A MINUTE. I THINK MR.
21 FRAZEE -- DO YOU HAVE A QUESTION OF HER?

22 MEMBER FRAZEE: NO, JUST A COMMENT.

23 CHAIRMAN PENNINGTON: OKAY.

24 MEMBER FRAZEE: YES, MR. CHAIRMAN. FIRST OF ALL,
25 I AM TROUBLED BY COUNSEL'S OPENING STATEMENT THAT WE SOMEHOW

1 ARE ALL BEING MANIPULATED BY NORCAL IN THIS MATTER AND I
2 RESENT -- WELL, RESENT IS A STRONG WORD, BUT I AM TROUBLED
3 BY THAT STATEMENT. AND AT LEAST FOR THIS MEMBER, I CONTINUE
4 TO HAVE AN OPEN MIND ON THIS ISSUE.

5 HOWEVER, I THINK THAT THE ITEM GOES MUCH
6 DEEPER THAN WAS INDICATED BY COUNSEL THAT THE ADDENDUM
7 DEALT WITH RAIL-HAUL. MY VIEW OF THE ADDENDUM WAS THAT IT
8 DEALT WITH A WHOLE RANGE OF SUBJECTS OF THE INADEQUACY OF
9 THE CEQA DOCUMENT TO BEGIN WITH. AND I WAS TROUBLED BY
10 THAT. BUT IN A SPIRIT OF COOPERATION AND ATTEMPTING TO HELP
11 THIS JURISDICTION OUT, I WENT ALONG WITH THAT. AND PERHAPS
12 IT WAS A STRETCH, AND PERHAPS IT WAS AN ILL-ADVISED STRETCH.
13 BUT WE WERE ASSURED BY OUR STAFF AND BY THE
14 FOLKS THAT REPRESENTED THE APPLICANT IN THIS CASE THAT THIS
15 ADDENDUM WOULD BE RATIFIED, AND IT WAS SOLELY ON THAT ISSUE
16 THAT CAUSED ME TO CAST A VOTE IN FAVOR OF THIS PROJECT. SO
17 I JUST WANTED THAT ON THE RECORD.

18 CHAIRMAN PENNINGTON: OKAY. THANK YOU.

19 MEMBER EATON: MR. CHAIR.

20 CHAIRMAN PENNINGTON: YES, MR. EATON.

21 MEMBER EATON: I WOULD LIKE TO ECHO MR. FRAZEE'S
22 COMMENTS. AND I THINK THIS IS KIND OF LIKE A SHOTGUN
23 MARRIAGE WE HAD A MONTH, MONTH AND A HALF AGO, AND KIND OF
24 HAD A FALLING OUT, AND BREAK-UP, AND RECONCILIATION, AND NOW
25 WE'RE KIND OF LOOKING FOR MEDIATION AND STUFF.

1 AND I HAVE AN OPEN MIND WHETHER OR NOT THE
2 CEQA PROCESS IS -- THAT YOU'RE NOT PERHAPS ON FIRM LEGAL
3 GROUND IN TERMS OF THE PROCESS IS OVER, CEQA, THOSE KINDS OF
4 THINGS. BUT SOMETIMES STANDING BEHIND WHAT'S LEGALLY LEGAL
5 AND WHAT THE RIGHT THING TO DO CAUSES PEOPLE PROBLEMS, AS
6 YOU WELL KNOW, IS IN THROUGH ALL OF THESE.
7 AND I THINK THAT PART OF THAT PROBLEM REALLY
8 WAS THE FACT THAT IN THE ADDENDUMS THAT WERE ADOPTED, AND
9 UNBEKNOWNST TO PERHAPS A LOT OF YOU OUT IN THE AUDIENCE, WAS
10 THE FACT THAT THE RESOLUTIONS THAT I HAVE BEFORE ME, BOTH
11 HERE, WERE ALSO EXCRUCIATINGLY GONE OVER IN GREAT DETAIL BY
12 EVERYONE HERE. SO MUCH SO THAT MANY THINGS WERE TAKEN OUT
13 FROM THE ORIGINAL RESOLUTION THAT WERE IN THE PACKET.
14 SO, THEREFORE, THAT CAUSES US WHEN -- ITS A
15 PERCEPTION PROBLEM ON THE PART OF THE BOARD MEMBERS, THAT
16 WHEN WE'VE GONE TO THOSE LENGTHS TO DO THAT, RIGHTLY OR
17 WRONGLY. AND IN THERE, ONE OF THE KEY COMMENTS WAS,
18 WHEREAS THE CITY OF ARCATA HAS INDICATED THEY WILL RATIFY
19 THE PROJECT DESCRIPTION -- I MEAN, THOSE KINDS OF PARAGRAPHS
20 WERE DISCUSSED AND GONE OVER
21 SO I JUST WANT TO GIVE YOU A KIND OF SENSE OF
22 WHERE -- THE DEPTH OF THE SORT OF FRUSTRATION IN THE WHOLE
23 PROCESS TAKES PLACE IS BECAUSE THERE WAS THAT EFFORT. AND
24 I, TOO, WILL CONTINUE TO KEEP AN OPEN MIND.
25 BUT IF I COULD JUST KIND OF ASK FOR YOUR

1 ASSISTANCE IN SPEAKING WITH YOUR INDIVIDUALS ABOUT WHAT THEY
2 WOULD LOOK AT IN TERMS OF OUR OWN EFFORTS TO REACH THE POINT
3 THAT THEY WOULD LIKE TO BE, AS WELL, IN THE FUTURE.

4 BUT I THINK IT'S FOR THOSE POINTS. AND WE
5 CAN GO BACK AND FORTH, BUT I THINK THAT'S WHERE THE DEPTH
6 OF THE SINCERITY ON THE PART OF BOARD MEMBERS, INCLUDING
7 MYSELF, GOES. AND I WOULD JUST HOPE THAT, YOU KNOW,
8 SOMETIMES FOR ALL OF US, AS GOOD PEOPLE WHO ADVISE,
9 SOMETIMES ADVISING THEM THAT EVEN THOUGH IT MAY BE LEGAL,
10 THERE ARE OTHER KINDS OF CONSIDERATIONS.

11 AND I FULLY UNDERSTAND THE POLITICAL THINGS,
12 AND NOT BEING ABLE TO GET THE VOTES. TRUST ME ON THAT. I
13 HAVE LOST MORE TIMES THAN I EVEN CARE TO REMEMBER.

14 BUT AT THE SAME TIME, PERHAPS NOT EVEN
15 GETTING A VOTE, AND NOT BEING ABLE TO SUCCESSFULLY COMPLETE
16 A VOTE, IT COMPLETES THE PART OF THE GOOD FAITH AS WELL.

17 MR. SCHAUB: MR. CHAIRMAN, I APPRECIATE THE
18 COMMENTS ABOUT GOOD FAITH. AND BECAUSE IT HAS BEEN
19 CONTENDED THAT IT WASN'T LEGALLY REQUIRED TO HAVE THE
20 ADDENDUM RATIFIED DOESN'T MEAN THAT WE DON'T-- WE'RE NOT IN
21 GOOD FAITH MAKING AN EFFORT TO ACCOMPLISH THAT. AND WE
22 STILL WISH TO ACCOMPLISH THAT. AND WE HAVE ANOTHER
23 OPPORTUNITY.

24 THE COUNSEL DIDN'T ACT LAST NIGHT BECAUSE THE
25 APPLICANT WHO -- IT'S STANDARD PRACTICE THAT WHEN SOMEBODY

1 ASKS SOMETHING TO BE PUT ON THE AGENDA, IF THEY ALSO ASK FOR
2 IT TO BE CONTINUED, THAT THAT IS HONORED BY THE BODY.
3 THAT'S JUST ALWAYS THE WAY IT'S DONE THERE. AND WE HAVE
4 ASKED THAT IT BE CONTINUED.

5 AND I STARTED OFF MY PRESENTATION, YESTERDAY
6 OR WHENEVER IT WAS WHEN WE STARTED THIS, ASKING THAT YOU
7 GIVE US ONE MORE SHOT AND CONTINUE IT AGAIN -- CONTINUE THE
8 ITEM AND FOCUS ON THE ISSUE OF THE RATIFICATION BY THE CITY
9 COUNCIL.

10 WE'RE MAKING A VERY GOOD FAITH EFFORT TO
11 ACCOMPLISH THIS BECAUSE WE WANT TO KEEP THE COMMUNITY --
12 EVEN THOUGH WE -- YOU KNOW, A LOT OF TIMES YOU NEGOTIATE
13 THINGS THAT YOU DON'T REALLY THINK ARE NECESSARY. IT HAPPENS
14 ALL THE TIME. YOU SIT AT A TABLE AND NEGOTIATE SOMETHING.
15 I'VE BEEN DOING THIS FOR A LONG TIME, AND A LOT OF YOU HAVE
16 TOO. AND YOU AGREE TO THINGS THAT YOU DON'T REALLY THINK
17 YOU NEED TO DO. BUT, HEY, IF THAT'S WHAT MAKES A DEAL, YOU
18 AGREE TO IT.

19 SO, WE AGREED TO IT. AND WE'RE TRYING TO
20 KEEP OUR END OF THE DEAL. WE'RE GOING TO KEEP OUR
21 COMMITMENT, AND WE ARE ACTING IN GOOD FAITH.

22 CHAIRMAN PENNINGTON: THANK YOU.

23 MEMBER JONES: MR.. CHAIRMAN?

24 CHAIRMAN PENNINGTON: MR. JONES.

25 MEMBER JONES: I WONT GO ON LONG. BUT I WILL

1 SAY, PEOPLE HAVE TO REMEMBER THAT MEETING ON AUGUST 26TH.
2 AND TO SAY THAT NORCAL IS MANIPULATING THIS -- THE WA
3 WALKED OUT OF HERE WITH FOUR VOTES TO BUILD A FACILITY BASED
4 ON A COMMITMENT. THE PROBLEM THAT HAS BEEN CREATED WAS NOT
5 CREATED BY US. THIS BOARD HAS NEVER, EVER GIVEN A PERMIT
6 PRIOR TO CEQA BEING DONE. PRIOR TO CEQA JUST ABSOLUTELY
7 BEING FINISHED.
8 WHEN WE DID THE MITIGATED NEG DEC HERE, BASED
9 ON THAT COMMITMENT THAT THAT WOULD BE RATIFIED. WE WERE IN
10 CONCERT WITH THAT.
11 THE REASON THAT I ASKED FOR THIS ITEM TO BE
12 RECONSIDERED IS A COUPLE OF REASONS. ONE, OBVIOUSLY, IT
13 HASN'T BEEN RATIFIED. THE SECOND THING IS, YOU HEARD TWO
14 BOARD MEMBERS, THREE BOARD MEMBERS SAY THAT HAD THEY STUCK
15 AROUND ON AUGUST 26TH, WITHOUT DOING THAT -- YOU KNOW,
16 WITHOUT -- AND LEFT TO GO GET THOSE ADDENDUMS DONE. THEY
17 WERE NOT GOING TO VOTE FOR THIS. THEY WERE NOT GOING TO
18 VOTE FOR IT.
19 SO WE EXHIBITED MORE GOOD FAITH THAN WE
20 NEEDED TO PROBABLY, BUT IT WAS PORTRAYED TO US THAT NORCAL
21 HAD A SLEDGEHAMMER OVER YOUR HEADS. AND WE DIDN'T WANT TO
22 PUT YOU IN A POSITION LIKE THAT. OKAY.
23 BUT THIS INSANITY THAT WE'RE EVEN AT THIS
24 POINT -- THIS THING GOES AWAY IF, OR WOULD HAVE GONE AWAY
25 IF EVERYTHING THAT WAS DESCRIBED TO US HAPPENED, AND IT

1 DIDN'T. AND NOW YOU LIVE WITH THE CONSEQUENCES. BECAUSE IT
2 IS MATERIAL MISREPRESENTATION, WHATEVER CEQA -- I MEAN,
3 WHEN YOU'RE TOLD SOMETHING THAT'S A REPRESENTATION. AND
4 THAT'S VERY, VERY BOTHERSOME, AND THIS BOARD NEEDS TO TAKE
5 THAT INTO CONSIDERATION.

6 CHAIRMAN PENNINGTON: OKAY. WHERE DO YOU WANT TO
7 GO?

8 MEMBER JONES: WE HAVE A REQUEST --

9 MEMBER EATON: WELL, I WOULD JUST ASK IF -- MR. BLOCK
10 EARLIER HAD REFRAINED FROM COMMENTING -- IF HE HAS ANY
11 COMMENTS FROM THE BEGINNING?

12 MR. BLOCK: AT THIS POINT, I DON'T THINK I'M GOING
13 TO LAUNCH INTO ANY SORT OF LONG EXPLANATION ABOUT -- AND
14 COMMENT ON A NUMBER OF ISSUES THAT HAVE BEEN RAISED BY A
15 NUMBER OF SPEAKERS.

16 BUT I WANTED TO RESERVE THE CHANCE IF YOU
17 HAD SPECIFIC QUESTIONS ABOUT SOME OF THE LEGAL ISSUES THAT
18 CAME UP, OR SPECIFICALLY ABOUT SOME OPTIONS.

19 MEMBER RHOADS: I HAVE A POINT I WOULD LIKE TO
20 MAKE.

21 CHAIRMAN PENNINGTON: YES, MR. RHOADS.

22 MEMBER RHOADS: AS WE ALL KNOW, I WASN'T HERE. SO
23 --

24 ALTHOUGH I'M GETTING A FEELING FOR WHAT TOOK PLACE.

25 BUT UNFORTUNATELY, MY FOCUS HAS PROBABLY

1 BEEN MORE ON THE SOIL ISSUE. AND I'M STILL CONFUSED ABOUT
2 THE VARIOUS REPORTS, AND STAFFS -- AND I WOULD LIKE -- I
3 WOULD FEEL A LOT BETTER IF OUR STAFF COULD TAKE A LOOK AT
4 THOSE RESULTS AND THE TABLES AND REPORT BACK TO US ON THEIR
5 CONCLUSIONS ABOUT WHAT'S BEEN PRESENTED TO US TODAY.

6 CHAIRMAN PENNINGTON: OKAY. WE CAN CERTAINLY HAVE
7 THEM DO THAT. YOU WERE GOING TO START --

8 MEMBER JONES: I DON'T KNOW WHERE THE NEXT STEP IS. I
9 KNOW THAT WE HAD A REQUEST FROM BILL GAY TO HOLD OFF FOR TWO
10 WEEKS. WE GOT A REQUEST FROM MR. SCHAUB TO GIVE THAT CITY
11 COUNCIL ONE MORE CHANCE.

12 DOES THAT TAKE CARE OF THE ISSUE WITH MR.
13 RHOADS TO GET SOME DETERMINATION ON THE OIL? THE OIL WAS
14 NOT AN ISSUE HERE.

15 WE COULD TURN AROUND AND WOULD PROBABLY DO
16 QUITE A FEW THINGS TONIGHT. I'M JUST NOT PREPARED -- I'D
17 ALMOST WANT TO TAKE A BREAK TO THINK THIS THING OUT, MR.
18 CHAIRMAN. OR IF SOMEBODY ELSE HAS A MOTION, BECAUSE I AM
19 NOT 100 PERCENT SURE HOW I WANT TO PROCEED.

20 CHAIRMAN PENNINGTON: LET'S TAKE A 15-MINUTE
21 BREAK.

22 (OFF THE RECORD; BRIEF RECESS.)

23 CHAIRMAN PENNINGTON: LET'S GET BACK TO WORK HERE.
24 LET'S GET BACK TO WORK HERE. WELL, I DID SAY 7:30, BUT
25 THAT'S ALL RIGHT.

1 MEMBER JONES: MR. SCHAUB'S HERE. HE'S --

2 CHAIRMAN PENNINGTON: OKAY. WE'RE READY.

3 MEMBER JONES: MR. CHAIRMAN.

4 CHAIRMAN PENNINGTON: MR. JONES.

5 MEMBER JONES: I WOULD LIKE TO MAKE A MOTION THAT

6 WE INSTRUCT OUR LEGAL STAFF TO CONTACT THE LEA, THE

7 ENFORCEMENT AGENCY, TO PUT INTO MOTION 44305, WHICH IS

8 AFTER HOLDING A PUBLIC HEARING IN ACCORDANCE WITH

9 PROCEDURES, TEMPORARILY SUSPEND THE PERMIT. AND THE

10 ENFORCEMENT AGENCY, AFTER HOLDING A HEARING IN ACCORDANCE

11 WITH THE PROCEDURES, AFTER THAT HEARING COULD REVOKE THE

12 SOLID WASTE FACILITIES PERMIT.

13 WE'VE GOT SOME OPTIONS THERE, BUT I'D LIKE

14 OUR STAFF TO GET IN TOUCH WITH THE LEA TO START THE PROCESS

15 OF SUSPENSION OF THAT PERMIT.

16 CHAIRMAN PENNINGTON: OKAY. AND I'LL SECOND THE

17 MOTION.

18 MR. BLOCK: CAN I -- JUST TO CLARIFY --

19 CHAIRMAN PENNINGTON: SURE.

20 MEMBER RHOADS: THE REQUEST WOULD BE TO COMMENCE

21 THE PROCESS TO EITHER SUSPEND OR REVOKE AS APPROPRIATE.

22 MEMBER JONES: EITHER SUSPEND OR REVOKE, YES.

23 OKAY.

24 CHAIRMAN PENNINGTON: CERTAINLY YOU CAN SPEAK TO

25 IT.

1 MS. MUDGE: AND WHY -- MAY I ASK YOU WHAT THE
2 GROUND FOR THE REQUEST IS, PLEASE?

3 MEMBER JONES: THE GROUND IS THAT ON AUGUST 26TH WE
4 SET OUT PARAMETERS. AND OUR STAFF HAD INDICATED THAT CEQA
5 WAS NOT ADEQUATE, AND THOSE MEASURES HAD NOT ALL BEEN
6 ADDRESSED. AND OUR VOTE WAS BASED ON ASSURANCES THAT THEY
7 WOULD BE.

8 AND, THEREFORE, OUR VOTE TO CONCUR WITH THE
9 LEA'S PERMIT IS AT QUESTION, BECAUSE -- USE THE WORD YOU
10 WANT. AND THE WORD I WILL USE IS THAT -- AND I'M TRYING TO
11 KEEP OUR OPTIONS OPEN HERE, TO GET THIS THING EQUITABLY
12 RESOLVED, BUT THERE WAS CLEAR DIRECTION FROM THIS BOARD AT
13 THE MEETING ON AUGUST 26TH, IN THESE CHAMBERS, AS TO WHAT
14 ACTION WOULD BE REQUIRED. AND THE MISREPRESENTATION, OR THE
15 REPRESENTATIONS HAVE NOT FULFILLED THOSE. AND I BASED MY
16 VOTE -- I BASED MY VOTE TO CONCUR WITH THAT PERMIT BASED ON
17 THOSE REPRESENTATIONS, AND THEY HAVE NOT COME TO FRUITION.

18 MS. MUDGE: MAY I ASK WHETHER YOUR MOTION IS
19 CONTINGENT ON THE OUTCOME OF THE CITY COUNCIL HEARING IN TWO
20 WEEKS?

21 MEMBER JONES: I THINK EVERYTHING IS. I MEAN, I
22 DON'T KNOW THAT IT'S CONTINGENT. MY MOTION IS CONTINGENT ON
23 FIXING THIS PROJECT.

24 MS. MUDGE: I WAS TRYING TO GET A SCOPE ON
25 WHAT THAT IS.

1 CHAIRMAN PENNINGTON: I THINK THE ANSWER TO THAT
2 QUESTION IS THAT IF THE ARCATA CITY COUNCIL ADOPTS THE
3 ADDENDUM, RATIFIES THE ADDENDUM, WHICHEVER TERM YOU'D LIKE
4 TO USE, WE CERTAINLY WILL REVISIT THIS QUESTION.

5 MS. MUDGE: THANK YOU.

6 CHAIRMAN PENNINGTON: UH-HUH.

7 MR. BLOCK: AGAIN, JUST SOME CLARIFICATION,
8 WHETHER YOU WOULD WANT US TO PUT THIS ITEM ON THE AGENDA OR
9 ROLL IT OVER FOR EITHER THE MEETING ON NOVEMBER 19TH OR
10 LATER?

11 CHAIRMAN PENNINGTON: I THINK THAT WE SHOULD ROLL
12 THIS OVER TO THE NEXT MEETING. WE CAN VOTE ON IT AND GET
13 THE MOTION GOING, BUT I THINK WE SHOULD STILL CARRY THE ITEM
14 OVER IN CASE WE WANT TO DEAL WITH SOME ACTION THAT THEY
15 MIGHT TAKE.

16 MEMBER JONES: MR. CHAIRMAN, WERE SCHEDULED TO HAVE
17 BOARD MEMBERS ON THE 18TH AND 19TH?

18 CHAIRMAN PENNINGTON: CORRECT.

19 MEMBER JONES: COULD THIS BE CONTINUED TO THE 19TH?

20 THE SECRETARY: THEY MEET ON THE 18TH.

21 CHAIRMAN PENNINGTON: I'M SORRY, WHAT?

22 THE SECRETARY: THEY MEET ON THE 18TH.

23 MEMBER JONES: OH, WHAT A COINCIDENCE.

24 CHAIRMAN PENNINGTON: AND OURS IS THE 18TH AND
25 19TH. WELL, THEN WELL MOVE IT TO THE 19TH.

1 IS THERE ANY FURTHER DISCUSSION? IF NOT,

2 WILL THE SECRETARY CALL THE ROLL?

3 THE SECRETARY: BOARD MEMBER CHESBOROUGH, ABSENT.

4 BOARD MEMBER EATON?

5 MEMBER EATON: AYE.

6 THE SECRETARY: FRAZEE?

7 MEMBER FRAZEE: AYE.

8 THE SECRETARY: JONES?

9 MEMBER JONES: AYE.

10 THE SECRETARY: RHOADS?

11 MEMBER RHOADS: AYE.

12 THE SECRETARY: CHAIRMAN PENNINGTON?

13 CHAIRMAN PENNINGTON: AYE.

14 THE MOTION CARRIES.

15 FOR YOUR EDIFICATION, I SECONDED IT. I HEARD

16 YOU ASK IF SOMEBODY HAD SECONDED IT.

17 MEMBER EATON: MR. CHAIR, PERHAPS JUST A COUPLE OF

18 THINGS.

19 ONE, LIGHT-HEARTED, IS THE FACT THAT I THINK WE'VE GONE

20 THROUGH ONE OF THE FIRST MEETINGS, AND OUR GOOD FRIEND MR.

21 CUPP IS STILL SITTING IN THE CORNER AND NOT SAYING A WORD,

22 SO WE OUGHT TO ACKNOWLEDGE THAT.

23 CHAIRMAN PENNINGTON: WE HAVE TO WAKE HIM UP.

24 MEMBER EATON: BUT PERHAPS MORE IMPORTANTLY, I THINK

25 WE OUGHT TO JUST THANK THE REPORTER HERE TONIGHT FOR HER

1 LONG SERVICE. AND SOMETIMES WE TEND TO FORGET THAT.

2 CHAIRMAN PENNINGTON: OKAY. I THINK THAT

3 CONCLUDES THIS MEETING. WE'RE ADJOURNED.

4 (WHEREUPON, THESE PROCEEDINGS WERE CONCLUDED AT

5 7:35 O'CLOCK P.M.)

6 ---

Please note: These transcripts are not individually approved and reviewed for accuracy.

CERTIFICATE OF REPORTER

I, DONNA L. ARCHULETA, authorized to administer oaths pursuant to Section 8211 of the California Code of Civil Procedure, do hereby certify;

That the proceeding was reported by me and was thereafter transcribed by computer under my direction Into typewriting.

I further certify that I am not of counsel or attorney for either or any of the parties In the foregoing proceeding and caption named, nor In any way Interested In the outcome of the cause named In said caption.

Executed November 5, 1998, at Sacramento,
California.

A handwritten signature in cursive script that reads "Donna L. Archuleta". The signature is written in dark ink and is positioned above the printed name.

DONNA L. ARCHULETA

CSR No. 11828